

**TENNESSEE BOARD OF OPTOMETRY MEETING  
MINUTES**

**DATE:** April 3, 2024

**TIME:** 9:00 A.M. CST

**LOCATION:** Health Related Boards  
Poplar Room  
665 Mainstream Drive  
Nashville, TN 37243

**BOARD MEMBERS**

**PRESENT:** Zachary McCarty, O.D.  
Kurt Steele O.D.  
Linda Tharp, O.D.  
James Venable, O.D.  
Kenneth Young, O.D.

**BOARD MEMBERS**

**ABSENT:** Consumer Member – Vacant

**STAFF**

**PRESENT:** Kimberly Wallace, Regulatory Board Administrative Director  
Maria Johnston, Regulatory Board Administrative Assistant  
Kathy Trawick, Associate General Counsel

**Call to Order**

Dr. Steele called the meeting to order at 9:04 a.m. CST. A roll call was conducted, and a quorum was present, with Dr. Zachary McCarty, Dr. Kurt Steele, Dr. Linda Tharp, Dr. James Venable, and Dr. Kenneth Young present. The Consumer Member seat is vacant.

Board staff from the Administrative Office, including Ms. Kimberly Wallace, and Ms. Maria Johnston, and from the Office of General Counsel, Ms. Kathy Trawick were also present.

Ms. Trawick presented the Conflict of Interest Statement and Open Meetings Act Notice to the Board, as follows:

**Conflict of Interest**

**PURPOSE:** To assure that the individual interests of board members do not conflict with or have the appearance of conflicts with their responsibilities to the Board to which they are appointed.

A circumstance in which a board member's individual interest impairs or impedes, or gives the appearance of impairing or impeding, his or her ability to make full, unbiased decisions or to provide

full unbiased service to the Board.

It is the duty of this Board to protect the health, safety, and welfare of the citizens of Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Any board member who has a conflict of interest as defined above must recuse himself/herself from any matter and is prohibited from participating in any discussion or vote on the matter and shall leave the hearing room during the discussion or vote.

If you have a personal or financial interest in the outcome of any issue or matter before this Board that may suggest a bias on your part, you are asked to state that interest on the record so a determination can be made as to whether there exists a need for recusal.

It is improper for any board member having a conflict of interest to attempt to influence another board member at any time, including prior to the discussion on the matter for which the conflict exists.

**Open Meetings Act**

Pursuant to the Open Meetings Act, Board business may only be discussed by the Board members during the meeting. Members should not discuss the Board’s business at any time other than during the open Board meeting. The prohibition applies to phone calls, e-mails, and text messages. Board 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.

**Discuss and consider approval of Meeting Minutes, January 10, 2024, Board Meeting**

A motion was made by Dr. Venable

To approve the Minutes of the January 10, 2024, Board Meetings, with amendment to page 14 of the applicants named.

A second was made by Dr. McCarty

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

**Receive Reports and/or Requests from the Office of Investigations**

**Report of Complaints & Currently Monitored Practitioners**

Justin Thornberry, Complaint Coordinator from the Office of Investigations, was present to provide the investigative reports to the Board.

**PERIOD: March 27, 2024, Year to Date Complaint Report:**

<b>New Complaints</b>	<b>Number of Complaints</b>
Total # New Complaints	4

Total Closed Complaints	4
Currently Opened Complaints	1
Complaints By Allegation	
<i>Unprofessional Conduct</i>	1
<i>Violation of Order</i>	1
<i>Outside INV Scope</i>	2

**Receive Reports and/or Requests from the Division of Health Licensure and Regulation**

Ms. Emily Godwin, Fiscal Director, presented FY2024 Mid-Year reports to the Board, with highlights, as follows:

- Total Expenditures: \$87,173.63
- Board Fee Revenue: \$93,075.00
- Current Year Net: \$5,901.37
- Cumulative Carryover: \$675,063.62

There is an anticipation of continued increases to technological costs, which are yet to be determined as the project continues.

Ms. Wallace noted that the fee decrease that completed the rulemaking hearing process is now set to become effective on June 24, 2024, and should be set before the Government Operations Committee for a hearing in the next few weeks. The rule change decreases the Application Fee from \$250.00 to \$150.00; all other fees remain unchanged.

**Discuss and take action as necessary regarding Legislation**

There were no legislative items for the Board to review at this meeting.

**Receive Reports and/or Requests from the Board Administrative Office**

Administrative Report

Ms. Johnston presented the Administrator’s report to the Board, as follows:

**STATISTICAL INFORMATION**

Listed below are the total numbers of active, retired and failure to renew licensees for the Board of Optometry:

**As of March 27, 2024**

<b>Optometrist</b>
Licensed – 1,365

**LICENSED STATUS SINCE PREVIOUS MEETING**

<b>January 3, 2024, to March 27, 2024</b>
New Licensed – 11
Reinstatement - 3
Retired - 5
Closed - 0
Paper Renewal - 32
Online Renewal - 117

**TRAVEL AND LODGING**

- The current mileage rate is \$0.67 cents per mile
- The current meals and incidentals rate is \$59.25 per day for an overnight stay
- The current maximum reimbursable rate for hotel lodging in Nashville for upcoming meetings dates, in 2024 is as follows (rate re-sets each October)
  - April 2024 is \$233
  - July 2024 is \$210

**UPCOMING BOARD MEETING DATES:**

- April 3, 2024
- July 10, 2024 – **Cancelled – New Date is scheduled for June 12, 2024**
- October 9, 2024

Jurisprudence Exam Review

Ms. Wallace reminded the Board of their discussion in their last meeting, in that one Board Member, which was Dr. Venable, would serve as a reviewer for the existing Optometry Board Jurisprudence Exam. The purpose in this review would be to examine each question against the current rules to ensure that all questions are in alignment with the rules and in proper format for a true/false exam. They would also be charged with making updates to the questions and/or drafting new questions for the exam. Once the review was complete, the revised version of the exam would be presented to the full Board for final review and approval.

Dr. Venable did complete his review and drafting of a new version of the examination, which has also been reviewed by the Administrative Office and submitted to the advisory attorney. The new version of the exam was presented for the Board’s review and approval.

In addition, Ms. Wallace has taken the initial steps towards having the Optometry Board Jurisprudence Exam available in an online format. The TN Dental Board currently administers their jurisprudence exam in a multiple-choice, online format and that board’s director is scheduled to attend the next Optometry Board meeting to give a demonstration of how that system works. Should the Optometry board wish to pursue that avenue for administration of the exam, pertinent considerations will be

discussed after that demonstration.

Dr. Venable advised the Board Members that he reviewed the existing exam and the inquiries he most often receives, regarding what a license can do and continuing education. He focused the questions on scope of practice and continuing education.

Dr. Steele and the Board thanked Dr. Venable for his efforts on the examination.

A motion was made by Dr. Tharp

To approve the implementation of the TN Board of Optometry Jurisprudence Exam 2024 version, as written.

A second was made by Dr. Dr. Young

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

### **Receive Reports and/or Requests from the Office of General Counsel**

Ms. Trawick presented the OGC Report, as follows:

#### Rule Activity

We have three (3) rule packets in internal review:

Fee decrease – the rulemaking hearing has already been held – waiting on approval

amendments to Rules .08 (Corporate or Business Names and Advertising), .09 (Spectacles, Contact Lens Prescriptions, and Office Technology), .18 (Telehealth), and new rule .19 (Change of Address and/or Name); and

amendments to Rules .05 (Continuing Education) and .07 (Diagnostic and Therapeutic Certification).

The other two packets are in internal review making slow but sure progress.

#### Disciplinary Activity

As of March 28, 2024, the Office of General has no cases against the board's licensees.

#### Disciplinary Coordinator's Report

Summary: As of March 2024, this report provides the total numbers of licensees currently being monitored for discipline. These numbers include licensees who have been reprimanded, are on probation, have had their license suspended, revoked, or have surrendered due to a disciplinary board

order.

Total number of Optometrists being monitored for discipline: 1

- Reprimand: 0
- Probation: 0
- Suspension: 1
- Revoked/Surrendered: 0

### Legislation

There is no new legislation to discuss.

### **Presentation of Orders, Agreed Citations, and Other Disciplinary Items**

#### Consent Orders

There were no Consent Orders for the Board to review at this meeting.

#### Agreed Citations

*Erwin Quirand, License #961*

Erwin Quirand, O.D., License #961, was found to have practiced on a lapsed license for four (4) months. He was assessed a civil penalty in the amount of two hundred dollars (\$200.00).

A motion was made by Dr. Tharp

To approve the Agreed Citation for Erwin Quirand, O.D., License #961, as written

A second was made by Dr. Venable

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

### **Applicant Interviews/File Reviews/Waivers & Other Requests**

File Review – Jared Cooper, O.D., File #3853

The applicant attended the meeting in person.

The Board was asked to review this file and make a licensing decision. This application could not be administratively approved due to the applicant having experienced prior discipline on an out-of-state Optometry license.

This applicant originally appeared before the Board by phone at the meeting held on 01/10/2024. Recorded in the Minutes of that meeting are the notes of the interview the Board conducted with Dr. Cooper and the Board's decision to allow him to submit a new application and appear again before the Board.

The applicant answered "no" on both the original application and the new application on question #6 which asks if they have ever experienced discipline on any license. However, The UT license verification shows that Agency and Disciplinary Action have been taken under Case # 2016-166. There is documentation of license probation and a monetary fine of \$1,625.00 assessed on 07/08/2016, with the license having been restored on 08/01/2017.

The applicant answered "yes" to application question #9 on the original application and put a note on the new application which asks about criminal convictions, providing supporting documentation of the indication as noted, above, however it was for an event that does not require Board consideration, under the Fresh Start Act.

- UT Board Order 07/08/2016

- Order included: License revoked with revocation immediately stayed and one-year probation implemented; administrative fine assessed; ethics course requirement; Board pre-approval for self-employment work; Active practice period; Notices to Board of employment changes; Residency notifications to Board; Active license requirement; Address change notification to Board.

- UT Board Order Satisfied 08/01/2017

- Probation terminated and licenses reinstated with full privileges

Dr. Tharp asked Dr. Cooper about the resubmission of his application. Dr. Cooper expressed his misunderstanding of the wording of the application between two questions, and that he did not intend to answer incorrectly.

A motion was made by Dr. Tharp

To approve the license application for Jared Cooper, O.D., File #3853 contingent upon resubmitting a corrected application with questions #6 and #12 being correct against his submitted documentation.

A second was made by Dr. Venable.

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

Practice Name Request – Eyes of Cleveland, Christopher Muegge, O.D., License #3608

Dr. Christopher Muegge, License #3608, submitted a business name approval request for Eyes of Cleveland.

Dr. Tharp asked and it was confirmed that this is a different business location from a previous request by the same optometrist.

A motion was made by Dr. McCarty

To approve the business name approval request for Eyes of Cleveland.

A second was made by Dr. Tharp

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

CE Waiver Requests

Ms. Wallace directed the Board to Rule 1045-01-.04(3) for reference on the rules regarding requests for CE waivers/extensions.

*CE Waiver Request – Joseph Driscoll, O.D., License #570*

Joseph Driscoll, O.D., License #570 requested the Board approve a waiver of the in-person CE requirements for the period of January 1, 2022, to December 31, 2023, in the amount of twenty-five (25) hours. He requested the Board accept all hours for this CE Cycle as completed through virtual/online courses. He submitted a formal request letter and supporting documentation.

Dr. Tharp asked if the Board may request specific diagnosis and/or medical test reports. Ms. Trawick confirmed that the letter as presented from the physician should suffice and the Board cannot ask for additional details of specific medical conditions outside of what the applicant/licensee freely provides.

A motion was made by Dr. Venable

To approve the CE waiver request for Joseph Driscoll, O.D., License #570 for a waiver of the in-person CE requirements for the period of January 1, 2022, to December 31, 2023, in the amount of twenty-five (25) hours, accepting all hours completed in an online format and to notify him that if it is requested in the future it must be requested prior to the end of the CE Cycle.

A second was made by Dr. Young

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.



CE Course Approval – KY Optometric Association Spring Conference 04/18/2024 – 04/20/2024

The Kentucky Optometric Association (KOA) submitted a request for the Board to consider approving their Spring Conference course offerings as meeting the requirements for continuing education for TN-licensed optometrists. Historically, KOA's courses did not require the Board to conduct a review and provide individual course approvals, as they fell under the "affiliate" category of vendors listed on the Board's website, in accordance with Rule 1045-02-.05(2)(a)2. The Board voted in 2023 that, effective 01/01/2024, courses sponsored by affiliate organizations would no longer be accepted without prior Board approval under this provision.

Dr. Venable wanted to go on record stating his support for the rule in internal rule to require all CE to be COPE-approved. Dr. McCarty believes that if the rule gets implemented for all COPE approved it will cause problems with CE offered by other states.

A motion was made by Dr. McCarty

To approve the Kentucky Optometric Association (KOA) Spring 2024 Conference course offerings for in the amount of nineteen (19) hours, as meeting the requirements for continuing education for TN-licensed optometrists.

A second was made by Dr. Young

Discussion:  None OR  As Follows

Dr. Tharp mentioned that KOA is inquiring about what will be required for them to go forward with making CE requests in the future. Dr. McCarty noted that the Board cannot speculate on what will happen in the future. That will be handled under the correspondence as a separate item.

The motion passed unanimously by voice vote.

**Ratification of Licensure Files**

A motion was made by Dr. McCarty

To approve the Ratification List, as presented.

A second was made by Dr. Venable

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

**Optometry Ratification List  
Newly Licensed  
1/03/2024 to 03/27/2024**

<u>License#</u>	<u>Name</u>	<u>License Expiry Date</u>
3866	Dejarnett Lori	1/31/2027
3857	Flink Gene Eric	1/31/2027
3856	Goforth Meredith	6/30/2025
3858	Hackney Todd	7/31/2025
3859	Norouzi Neda	11/30/2025
3863	Norris Gillian	2/28/2027
3864	Pierce Kaylin	5/31/2025
3862	Reimold Julia	6/30/2026
3850	Rutkowski Kimberly	8/31/2026
3844	Small Shaun Jerome	9/30/2025
3860	Turner Peyton	7/31/2025

**Reinstatement from Retired/Expired  
1/03/2024 to 03/27/2024**

<u>License#</u>	<u>Name</u>	<u>License Expiry Date</u>
2687	Booth Holly Renee	11/30/2025 11/30/202
3246	Bruno Cassandra	5
961	Quirand Erwin A	9/30/2025

**Licensed to Voluntarily Retired  
1/03/2024 to 03/27/2024**

<u>License#</u>	<u>Name</u>	<u>License Status Date</u>
3674	Cercone Jocelyn Dr	03/12/2024
2952	Duncan Matthew Ryan	01/10/2024
1984	Hicks David Clayton	01/23/2024
1039	Stewart James B	02/29/2024
877	Thomas Morton D	03/21/2024

**Receive Reports and take action as needed regarding CSMD Committee Reports**

Dr. McCarty, CSMD Committee Representative, he was unable to attend the last meeting due to timeliness of notice. Dr. Tharp suggested having a backup, and Dr. Steele volunteered as such.

### **Discuss and take action as necessary regarding Rulemaking and Policies**

There were no other rulemaking or policy items for the Board to review in this meeting.

### **Conference/Events Reports and Upcoming Events Review**

The ARBO Annual Meeting is scheduled for June 16-18, 2024, Nashville, TN. The Board previously approved sponsorships for attendance by Board Chair Dr. Steele, Administrative Director Ms. Wallace, and advisory attorney Kathy Trawick to attend.

### **Discuss Old/New Board Business**

There were no old or new business items for the Board to review in this meeting.

### **Review of Correspondence and Notices**

#### **Correspondence**

#### *ARBO – Affiliate CE Clarification*

#### *Kentucky Optometric Association – Affiliate CE*

The two items of correspondence submitted by both ARBO and the Kentucky Optometric Association (KOA), are similar in nature and are directly related to the Board's change to the list of pre-approved CE vendor organizations under Rule 1045-02-.05(2)(a)2 and warrant a combined discussion.

With the Board's vote in 2023 that, effective 01/01/2024, courses sponsored by affiliate organizations would no longer be accepted without prior Board approval under this provision, the KOA is inquiring about the Board's acceptance of courses and/or conferences that are co-sponsored by either an ACOE accredited Optometry School or by the American Optometric Association, and if they would be acceptable for TN-licensed optometrists to meet their CE requirements without having to request prior Board approval on a course-by-course or event-by-event basis.

In addition, ARBO has inquired to ask two specific questions:

1. Must any affiliate provide COPE accredited CE to be accepted?
  - a. The Administrative Office would also footnote, or Board-approved CE?

The Board's response to this question was, yes, an affiliate organization without the co-sponsoring of an approved vendor would have to provide COPE-approved, or otherwise approved by the Board CE to be accepted for TN licensure requirements.

2. For the approved vendor list, are all credits to be counted, whether COPE accredited or non-COPE accredited hours?

The Board's response to this question was, yes, all CE offered by those organizations on the Board's approved vendor list, whether or not is was COPE-approved, is accepted for TN licensure requirements.

The Board further discussed and stated that if any event is co-sponsored by a Board-approved vendor, then it will be accepted.

Dr. Young concurred with Dr. Venable's statement that requiring all COPE-approved CE will simplify matters in the future. Dr. Venable noted that the intent of changing the requirement to COPE-only CE was to simplify the approval of CE by having it funnel through COPE.

Dr. Venable noted that co-sponsoring does not always mean that the co-sponsor is conducting any kind of review of the materials.

Dr. McCarty noted it is an assumption, reading as the rule states, that if they are sponsored by an organization listed on the board website, they do not have to have board prior approval.

Dr. Venable stated that removing the affiliate organizations from the list of approved vendors was to ensure that the CE being presented by the approved vendor list was reviewed and approved by that organization.

The Board discussed that sponsored versus co-sponsored may not be construed as the same thing. Dr. Venable believes they are not the same thing.

Dr. Steele noted that they may be restricting access to some good education, and he would hate to not have that education approved. He has no problem with the list of vendors as it exists. He would be curious to know what TN border states do and questions if TN is restricting access to CE from the border regions.

Ms. Trawick stated that co-sponsorship is essentially the same thing as sponsorship, per the Merriam-Webster dictionary definitions.

Patience Long, Executive Direct of TAOP, made public comment, stating that only four (4) states exclusively require COPE approval of CE and for doctors attending destination CE, the sponsors will not seek COPE approval. She recommends allowance of some affiliate CE.

If an event is co-sponsored, both organizations should be responsible for the content.

The Board deemed that, if a course is co-sponsored by any organization on their approved vendor list, those would be considered approved courses.

Dr. McCarty stressed that co-sponsoring should mean equal liability and oversight for the event.

A motion was made by Dr. McCarty

To remove all affiliate language from the Board’s website list of vendors and add the language of “Course(s) sponsored or co-sponsored by...” for the vendors listed #1-#5 on the Approved Vendor List.

A second was made by Dr. Tharp

Discussion:  None OR  As Follows

The motion had a split voice vote and moved to a roll call vote for confirmation, as follows:

#### Roll Call Vote Record

- Dr. McCarty - AYE
- Dr. Young - AYE
- Dr. Steele - AYE
- Dr. Tharp - AYE
- Dr. Venable - NAY

The motion passed by majority vote.

Ms. Trawick provided additional information that sponsorship in business may provide support through funds or influence from a marketing perspective.

#### Correspondence - ARBO Model Practice Act

ARBO has released a new version of their Model Practice Act for Optometry and they are accepting comments on the document through April 12, 2024.

The Board had no comments to make at this time. Dr. Venable reviewed the document and found nothing objectionable.

Dr. Tharp was recused from this item due to her position as an ARBO Board Member and involvement in writing the document. A quorum remained.

A motion was made by Dr. Venable

To make no comment at this time on the ARBO Model Practice Act.

A second was made by Dr. Young

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

### Notice – NBEO 2024 Changes and Announcements

This item is a notice, for the Board’s awareness, with no action required. It included information regarding changes in NBEO board members, and examinations.

Dr. McCarty asked if the name change in the exam part III requires any rule or policy change. Dr. Venable noted the rules include the name only parenthetically.

### **Public Comment**

Ms. Wallace noted that Public Comments may be submitted in writing to [Unit3HRB.Health@tn.gov](mailto:Unit3HRB.Health@tn.gov) or to 665 Mainstream Drive, Nashville, TN 37243, or may be given verbally by attending a meeting in person.

Public Comment was made by Patience Long, TAOP Executive Director, who asked about the rule changes in process regarding CE, with thoughts to planning ahead for CE events.

Ms. Wallace clarified that rules are effective as of the effective date of the rule package, inclusive of any specific information embedded in a rule.

Ms. Long stated there is a movement to get away from the requirement of COPE approval for CE, and TAOP is having to pay COPE fees for some events because some presenters do not want to seek COPE approval since many states do not require it. Dr. Venable also expressed that there is an underlying political issue at hand between various organizations in the profession that is complicating the issue. Ms. Long stated that a COPE-only environment makes it difficult for TN doctors to obtain CE.

Dr. Tharp mentioned the importance of having an accreditation stamp on CE.

Ms. Trawick stated that one of the things that legislators are looking at and a Governor’s mandate is they do not want any rules that make it more restrictive to obtain or maintain licensure. This is a component of the review criteria for the internal review process for rulemaking packages.

Dr. Venable stated that he has sat through several CE courses that were not valuable or beneficial. The Board’s duty is to not be restrictive, but to also protect the public. The only way he will be supportive of CE that is not COPE approved, is that he would require a body of academically qualified individuals to review and approve all CE. Ms. Trawick mentioned having a consultant that could potentially review CE courses. Ms. Wallace referenced CE review protocol existing in the rules for many boards, some of which task a sub-set of board members to perform independent CE course reviews, as needed, and then report back to the full board.

Public Comment was made by Stephanie Price; she retired her TN license to go practice in CA, where they had to complete 50 hours per cycle. The CE she completed in CA did not qualify for the reinstatement of her TN license. Dr. Venable questioned the nature of the CE denial, which she confirmed was due to the accrediting body.

**Adjournment**

There being no further business to be heard, a motion was made by Dr. Young to adjourn.

A second was made by Dr. Tharp

Discussion:  None OR  As Follows

The motion passed unanimously by voice vote.

The meeting was adjourned at 11:25am CST.

**These Minutes were Ratified by the Board on June 12, 2024**

Kurt F. Hedgcock  
**Board Chair**

6/12/24  
**Date**