

Sunset Public Hearing Questions for
Board of Dispensing Opticians
Created by Section 63-14-101, *Tennessee Code Annotated*
(Sunset termination June 2015)

1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff and administrative attachment.

The Board of Dispensing Opticians was created in 1955 by an act of the State Legislature. Its mission is to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice the profession of opticianry within this state be qualified. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The Board is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations.

Opticians are licensed by examination.

The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses to those who meet the requirements of the law and rules. Renewal notices are mailed from Board's administrative office forty-five (45) days prior to the expiration of the license to the current address on record. Licensees are responsible for reviewing their license on time and keeping the Board apprised of current information. Licenses can be renewed on-line one hundred twenty (120) days prior to expiration at Tennessee.gov/health.

The Board is required to meet at least once per year, but typically convenes four (4) times per year. A quorum of four (4) members is required to conduct business. The meetings are open to the public.

All members of the Board are appointed by the Governor to serve four (4) year terms. The six (6) member Board consists of five (5) licensed opticians who must each have five (5) years experience and one (1) member who is a health care consumer.

2. Provide a list of current board members. For each member please indicate who appointed the member, how the member's presence on the board complies with Section 63-14-101, Tennessee Code Annotated, and the member's county of principal residence. Please indicate each member's race and gender and which members, if any, are 60 years of age or older. Are there any vacancies on the board? If so, what is being done to fill those vacancies?

MEMBER REPRESENTATION GENDER/ETHNICITY

Felda Stacey Davidson County	DPO	Female/Caucasian
Donald L. Wells Davidson County	DPO	Male/Caucasian Over 60
Kimberly A. Jackson Shelby County	DPO	Female/Caucasian
LeRhonda Walton-Hill Knox County	DPO	Female/Caucasian
Dr. Edward Risby Davidson County	Consumer Member	Male/African American
Kathy Hawkins Sumner County	DPO	Female/Caucasian

3. What per diem or travel reimbursement do members receive? How much was paid to board members during fiscal years 2013 and to date in 2014?

Members receive a per diem of \$100.00 per day and reimbursement of travel expenses for mileage, hotel and meals (airfare, if needed.) Members are reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration.

	2013	2014
Per Diem	\$2200.00	\$1300.00
Mileage	\$2961.00	\$1422.00
Hotel	\$18311.00	\$789.00
Parking/Baggage/Taxi/Registration	0	0
Meals	\$1716.00	\$726.00
Airfare	0	0
Total	\$9708.00	\$2938.00

4. How many times did the board meet during fiscal years 2013 and to date in 2014, and how many members were present at each meeting?

Meeting Date	Number Present	Meeting Date	Number Present
July 11, 2012	4	July 10, 2013	6
October 31, 2012	6	November 20, 2013	6
January 9, 2013	5	February 4, 2014	6
April 10, 2013	5	May 28, 2014	5

5. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public?

The board is subject to the Sunshine law requirements of T.C.A. 8-44-101 et seq. A public meeting notice is posted to the board's website on the 15th of the month preceding the month the board meets as well as posting the information on the Public Participation Calendar. The HRB Internet administrator ensures that the Sunshine Notice is posted on the Internet and that the Commissioner's Office is notified. Regarding minutes, the board's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the board at its next regularly scheduled meeting. After the minutes are ratified, they are then placed on the board's web site.

6. How does the board ensure that its members and staff are operating in an impartial manner and that there are no conflicts of interest? If the board operates under a formal conflict of interest policy, please attach a copy of that policy.

All Board members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to it. Board members are required to sign a conflict of interest statement upon appointment or as soon as practical and annually thereafter. It is the responsibility of the board administrator to insure that the Conflict of Interest Statement is properly and timely signed. The board's administrative office keeps signed copies on file in the Central Office of Health Related Boards.

7. What were the board's revenues (by source) and expenditures (by object) for fiscal year 2013 and to date for 2014? Does the board carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the board does not carry a fund balance, what was the source of the revenue for the excess expenditures?

For FY13 the Board's revenues were \$144,012.40, and total expenditures of \$53,125.91. They had a projected carryover of \$171,453.61.

Projected FY14, Boards revenue - \$127,088.00 total expenditures - \$50,618.75. Projected carryover of \$247,922.86.

8. Has the board promulgated rules as authorized in Section 63-14-101(c), *Tennessee Code Annotated*? If so, please cite the reference.

The board has promulgated rules under Tenn. Comp. R. & Regs. 0480-01. Recently, a rulemaking hearing was held October 8, 2013. The amended rules include: 0480-01-.01 Definitions; 0480-01-.02 Scope of Practice; 0480-01-.12 Continuing Education; 0480-01-.14 Apprenticeship Training Program.

These rules were finalized in the Office of General Counsel and sent to the Attorney General's office on February 11, 2014 where they are undergoing legal review.

9. How many dispensing opticians are there in the state? Are they all under the authority of the board? If not, what types of practitioners are not and should they be included under the board's authority?

There are 823 licensed dispensing opticians in the state and 411 apprentices. All dispensing opticians are under the authority of the board.

10. How many new licenses and how many renewals has the board issued during fiscal years 2013 and to date in 2014? How does the board ensure that license holders meet all licensure requirements?

Dispensing Opticians	Renewals	Initials
January 1 – December 31, 2013	395	24
January 1 - May 31, 2014	149	16

In order to ensure that license holders meet all requirements for licensure, a thorough file review is conducted.

11. How many license applications did the board deny during fiscal years 2013 and to date in 2014? What were the reasons for denial?

None

12. How many licenses did the board revoke or suspend during fiscal years 2013 and to date in 2014? What were the reasons for any revocations or suspensions?

None

13. How does the board ensure that no person licensed as a dispensing optician crosses the line into prohibited practice areas as defined by Section 63-14-102, *Tennessee Code Annotated*?

The board relies on licensees and the public to file complaints with the Office of Investigations should they witness a dispensing optician practicing outside their scope of practice.

14. How many complaints or accusations did the board investigate during fiscal years 2013 and to date in 2014? What kinds of complaints and accusations were received? How many resulted in some form of remedial action being taken by the board?

There were four (4) complaints on Dispensing Opticians in 2013.

To date in 2014, there were four (4) complaints received. There was one (1) complaint for unprofessional conduct and three (3) with multiple issues.

15. Describe the process by which the board receives, handles and tracks complaints. Are there written procedures? Are complaints rated by level of seriousness or other priority-handling method? Is a complaint log kept? At what point is a complaint closed? What benchmarks have been established for timely movement of complaints through the department's complaint-handling process? How many complaints failed to meet the benchmarks during the last two fiscal years and what action has been taken to assure future complaints do comply with the benchmarks?

Complaints are triaged at intake to ensure that emergency issues are handled immediately, with investigations commencing on the same and/or following day. Routine complaints are processed according to an established review procedure utilizing practicing members of the profession as consultants and a staff attorney assigned by the Department of Health. Complaints are designated by priority code, which can change during the course of an investigation. Complaints are tracked utilizing a computerized database system.

Written procedures are in place to serve as a guideline for the effective investigation and preparation of the necessary evidence for purposes of prosecution.

A complaint can be closed at initial review and/or after an investigation.

Benchmarks have been established for the review and the investigative stages. A 30 day benchmark is established for the review process with a 90 day benchmark established for the investigation process.

16. In the last performance audit of the board, dated November 2003, the second finding stated that various boards, including the Board of Dispensing Opticians, did not have disciplinary guidelines. The audit noted that, "While boards are not statutorily required to develop and implement disciplinary guidelines, as a result of their absence, Health Related Board's efforts to achieve greater consistency in disciplinary actions may be limited." Since that audit, has the board taken any action to establish disciplinary guidelines?

In its meeting held on June 4, 2004, the board voted to adopt the disciplinary guidelines developed by the Director of the Health Related Boards. The guidelines are in a chart form, and are flexible which allows the board to use its discretionary authority regarding disciplinary matters.

17. What steps has the board taken to increase consumer awareness of the board as a mechanism to respond to consumer complaints and regulate the industry?

The Department of Health maintains a website at <http://health.state.tn.us/boards/complaints.htm> which provides consumers with an

in depth description of the complaint process including how to file a complaint and what they may expect from the Department of Health.

18. What avenue of recourse or appeal does an applicant or license holder have from disciplinary actions taken by the board pursuant to authority granted to the board by Section 63-14-111, *Tennessee Code Annotated*?

Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition with the Board, it is deemed denied. TENN. CODE ANN. § 4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. TENN. CODE ANN. § 4-5-316.

Finally, a party may seek judicial review by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. TENN. CODE ANN. § 4-5-322.

19. Of disciplinary actions undertaken by the board during fiscal years 2013 and to date in 2014, how did the board most often become aware of the situations resulting in the disciplinary action?

There were no disciplinary actions.

20. Has the board set goals and measured its performance compared to the goals? What performance indicators or goals does management use to measure the effectiveness and efficiency of the board? How well has the board performed based on those performance indicators?

Yes. The Board's administrative office has established benchmarks for the processing of applications and renewals. The application benchmark is 365 days from the date the application is received in the administrative office to issuance of licensure. The benchmark for renewals is fourteen days. For renewals in 2013, 6 were over the established benchmark. The renewals over the benchmark can be attributed to incomplete renewal applications which contained no signature and had to be returned.

For applications in 2013, 4 over the established benchmark. Three applications outside the benchmark can be attributed to the applicant failing the required testing and 1 delayed pending receipt of additional information needed to complete the application.

21. Describe any items related to the board that require legislative attention and your proposed legislative changes.

There are no items requiring legislative attention.

22. Should the board be continued? To what extent and in what ways would the absence of the board endanger the public health, safety or welfare?

Yes, the Board should be continued. Absent the presence of the Board of Dispensing Opticians, members of the public whose health care is provided by dispensing opticians would be uncertain that their healthcare provider is fully qualified to practice his/her profession and does so in a safe and ethical manner.

23. Please list all board programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

If the board does receive federal assistance, please answer questions 24 through 31. If the board does not receive federal assistance, proceed directly to question 30.

24. Does your board prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

25. Does your board have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

26. To which state or federal agency (if any) does your board report concerning Title VI? Please describe the information your board submits to the state or federal government and/or provide a copy of the most recent report submitted.

27. Describe your board's actions to ensure that board staff and clients/program participants understand the requirements of Title VI.

28. Describe your board's actions to ensure it is meeting Title VI requirements. Specifically, describe any board monitoring or tracking activities related to Title VI, and how frequently these activities occur.

29. Please describe the board's procedures for handling Title VI complaints. Has your board received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

30. Please provide a breakdown of current board staff by title, ethnicity, and gender.

POSITION	RACE	GENDER
ADMINISTRATIVE DIRECTOR	Caucasian	Female
ADMINISTRATOR	African American	Female
LICENSING TECH	African American	Female

31. Please list all board contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

The board has a contract with the National Commission of State Opticianry Regulatory Boards (NCSORB) to provide applicants with the practical examination for licensure.