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Rule ID(s): 0940
File Date: 5/21/19
Effective Date: 8/19/19

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Board of Optometry
Division:
Contact Person: Kaitlin R. Parham, Assistant General Counsel
Address: 665 Mainstream Drive, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-1611
Email: Kaitlin.R.Parham@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1045-02	General Rules Governing the Practice of Optometry
Rule Number	**Rule Title**
1045-02-.04	License Renewal
1045-02-.05	Continuing Education

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Rule Chapter 1045-02
General Rules Governing the Practice of Optometry

Amendments

Rule 1045-02-.04 License Renewal is amended by deleting subparagraph (1)(a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1)(a) shall read:

(a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

https://apps.tn.gov/hlrs/

Authority: T.C.A. §§ 63-1-107, 63-8-112, 63-8-119, and 63-8-120

Rule 1045-02-.05 Continuing Education is amended by deleting paragraph (1) and subparagraph (1)(a) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (1)(c) in its entirety and re-lettering the remaining subparagraphs, so that as amended, the new paragraph and subparagraph shall read:

(1) Effective January 1, 2020, an Optometrist with a renewal date in the year 2020 and beyond must complete forty (40) hours of Board approved continuing education during the twenty-four (24) months that precede the licensure renewal month.

(a) For those who are therapeutically certified, a minimum of twenty five (25) of the forty (40) hours of continuing education is required in courses pertaining to ocular disease and related systemic disease, as described in subparagraph (2)(e). At least two (2) of these twenty five (25) hours shall be a course or courses designed specifically to address controlled substance prescribing practices. Any course related to controlled substance prescribing practices must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbituates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.

Authority: T.C.A. §§ 63-1-107, 63-8-112, 63-8-119, and 63-8-120.

Rule 1045-02-.05 Continuing Education is amended by deleting subparagraph (2)(c), part (2)(e)4, and part (2)(f)2 but not its subparts, and substituting instead the following language, so that as amended, the new subparagraph and parts shall read:

(c) Any course designed specifically to address controlled substance prescribing practices must be pre-approved by the Board or by a vendor approved by the Board for offering such courses.

4. (Optometric) Business Management – These courses shall pertain to practice management and/or ethics/jurisprudence. The total number of (Optometric) Business Management hours that will be accepted is eight (8) hours of the forty (40) hour requirement.

2. Fifteen (15) hours of the forty (40) hour requirement may be completed in any of the following multi-media formats:

Authority: T.C.A. §§ 63-1-107, 63-8-112, 63-8-119, and 63-8-120.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Christopher H. Cooper, O.D.	X				
Linda Tharpe, O.D.	X				
Torrey J. Carlson, O.D.	X				
Tonya Reynoldson, O.D.	X				
Jennifer G. Uhl, O.D.				X	
Nancy P. Strawn	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Optometry (board/commission/ other authority) on 01/16/2019 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *08/09/18 (mm/dd/yy)*

Rulemaking Hearing(s) Conducted on: (add more dates). *01/16/19 (mm/dd/yy)*

Date: 1-17-19

Signature: Kaitlin R. Parham

Name of Officer: Kaitlin R. Parham

Title of Officer: Assistant General Counsel, Department of Health

LISA WILLIAMS NOTARY PUBLIC STATE OF TENNESSEE COUNTY OF ROBERTSON

Subscribed and sworn to before me on: January 17, 2019

Notary Public Signature: Lisa Williams

My commission expires on: December 22, 2021

Agency/Board/Commission: Tennessee Board of Optometry

Rule Chapter Number(s): 1045-02-.04 and 1045-02-.05

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

5/9/2019

Date

Department of State Use Only

Filed with the Department of State on: 5/21/19

Effective on: 8/19/19

Tre Hargett
Secretary of State

RECEIVED
2019 MAY 21 PM 3:28
SECRETARY OF STATE
FILED

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

The Board received one comment regarding these amendments.

Zachary McCarty, O.D., from the Tennessee Association of Optometric Physicians, addressed the Board both orally and with a written comment. Mr. McCarty stated that the association supports the rules, including the increase in the amount of required continuing hours; however, he requested that the Board return to the previous language regarding "that proceed licensure renewal month." Mr. McCarty argued that some licensees may be confused if the language was changed to "that proceed licensure renewal year."

By roll-call vote, the Board voted to accept the association's corrections as stated by Mr. McCarty.

At the hearing and at the recommendation of Board counsel, the Board voted to amend the noticed language to include an effective date of January 1, 2020.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The extent to which the rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

These rule amendments do not overlap, duplicate, or conflict with other federal, state, and local government rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule.

These rule amendments are clear, concise, and lack ambiguity.

(3) The establishment of flexible compliance and reporting requirements for small businesses.

These rule amendments do not establish reporting requirements.

(4) The establishment of friendly schedules or deadlines for compliance and reporting requirements for small businesses.

These rule amendments do not establish reporting requirements.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

These rule amendments do not establish reporting requirements.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

These rule amendments do not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

These rule amendments do not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Tennessee Board of Optometry

Rulemaking hearing date: 01/16/2019

1. **Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

   Licensed optometrists and optometric practices will be affected by these proposed rule amendments. Licensees are already required to complete continuing education hours; however, the ten (10) hour increase will make compliance slightly more expensive for practitioners and businesses that cover the costs of continuing education for the providers.

2. **Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

   These proposed rule amendments will not require additional reporting, recordkeeping or other administrative costs.

3. **Statement of the probable effect on impacted small businesses and consumers:**

   These proposed rules are unlikely to have any effect on small consumers, but will affect any small businesses that cover the costs of continuing education for providers due to the ten (10) hour increase in continuing education.

4. **Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

   There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule amendments. The Board has determined that additional continuing education is necessary for its licensees to succeed in their field and to provide better quality care to patients.

5. **Comparison of the proposed rule with any federal or state counterparts:**

   Federal: N/A

   State: The Association of Regulatory Boards of Optometry (ARBO), which provides resources to regulatory boards of optometry throughout the world, has recognized a national trend of increasing the required continuing education hours for providers.

6. **Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

   These proposed rule amendments do not create exemptions for small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendment to Rule 1045-02-.04 amends the website listed in this subsection to the updated online renewal website. This subsection formerly referred licensees to "www.tennesseeanytime.org," it will now refer them to "https://apps.tn.gov/hlrs."

The amendment to Rule 1045-02-.05(1) changes total required continuing education hours from thirty (30) to forty (40).

The amendments to Rule 1045-02-.05(1)(a) and (c) consolidate subsections (a) and (c) into a single subsection, changing twenty (20) hours to twenty-five (25) hours, and change a continuing education requirement for therapeutically certified optometrists in ocular or systemic disease from twenty (20) to twenty five (25) hours.

The amendment to Rule 1045-02-.05(2)(c) removes an incorrect reference to one (1) hour classes regarding prescribing practices.

The amendment to Rule 1045-02-.05(2)(e)4 changes continuing education requirement for business management courses from six (6) to eight (8).

The amendment to Rule 1045-02-.05(2)(f)2 changes continuing education requirement for lecture type courses from twelve (12) to fifteen (15).

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Licensed optometrists and optometric practices will be affected by these proposed rule amendments.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Kaitlin R. Parham, Assistant General Counsel, Department of Health.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Kaitlin R. Parham, Assistant General Counsel, Department of Health.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, 37243, (615)741-1611, Kaitlin.Parham@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

(Rule 1045-02-.03, continued)

passage of the National Boards), provided the applicants meet each of the following requirements:

(a) are duly licensed to practice optometry in at least one other state;

(b) meet all other requirements for full licensure under the Tennessee Optometry law; and

(c) provide the Board with letters of recommendation from the Boards of Optometry where the applicants are licensed and from federal service (military, veterans administration, public health, etc.), if applicable and from accredited institutions of higher learning where applicants have been optometric educators if applicable.

(5) Notwithstanding the above, the Board may, by majority vote, waive the passage of al parts of the National Board's Examination and may accept proof of clinical competency in lieu of submission to clinical examination by the Board where the applicant is in good standing and practicing in another state with clinical competency examinations comparable to that of the State of Tennessee.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-8-112, 63-8-112(1) & (3), 63-8-115, and 63-8-107(c).* ***Administrative History:*** *Original rule filed May 15, 1981; effective July 22, 1981. Amended by Public Chapter 969; effective July 1, 1984. Repeal and new rule filed November 30, 1990; effective January 14, 1991. Amendment filed October 29, 1991; effective December 13, 1991. Amendment filed August 2, 1995; effective October 16, 1995. Amendment filed October 11, 1999; effective December 25, 1999. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed March 2, 2009; effective May 16, 2009; however, stay of the effective date filed May 14, 2009 by the Tennessee Board of Optometry; new effective date July 13, 2009.*

1045-02-.04 LICENSE RENEWAL. All optometrists licensed by the Board must renew those licenses to be able to legally continue in practice. Licensure renewal is governed by the following:

(1) The due date for renewal is the last day of the month in which a licensee's birthdate falls pursuant to the Division of Health Related Boards' biennial birthdate renewal system.

~~(a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:~~

~~www.tennesseeanytime.org~~

(a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

https://apps.tn.gov/hlrs/

(b) Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

(2) To be eligible for licensure renewal, an optometrist must submit to the Board administrative office on or before the due date for renewal all the following:

(a) A completed Board approved application form.

(b) The biennial renewal fee as provided in Rule 1045-02-.01(1)(d).

(Rule 1045-02-.04, continued)

(c) The biennial state regulatory fee as provided in Rule 1045-02-.01(5).

(3) The Board, in cases of documented illness, disability, other undue hardship or retirement, may

(a) waive the continuing education requirements; and/or

(b) waive the renewal fee (but not the state regulatory fee); or

(c) extend the deadline to complete continuing education requirements.

(d) To be considered for a waiver of continuing education requirements, or for an extension of the deadline to complete the continuing education requirements, an optometrist must request such in writing with supporting documentation before the end of the calendar year in which the continuing education requirements were not met.

(e) To be considered for a waiver of the renewal fee, an optometrist must request such in writing with supporting documentation on or before the renewal due date.

(4) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-01-.10, unless a waiver or deadline extension is granted pursuant to paragraph (3) of this rule.

(5) Reinstatement of an Expired License - Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:

(a) Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1045-02-.01; and

(b) Payment of the Reinstatement fee, pursuant to Rule 1045-02-.01; and

(c) Provide documentation of successfully completing continuing education requirements for every year the license was expired, pursuant to Rule 1045-02-.05.

(6) License renewal and reinstatement applications hereunder shall be treated as license applications, and review and decisions shall be governed by Rule 1045-02-.02.

(7) Retirement of Licenses.

(a) Licensees who wish to retain their licenses but not actively practice may avoid compliance with the licensure renewal process by:

1. Submitting a Board approved affidavit of retirement form to the Board Administrative Office; and

2. Submitting any documentation which may be required by the form to the Board Administrative Office.

(b) Licensees whose licenses have been retired may reenter active practice by:

1. Submitting a written request for licensure reactivation to the Board Administrative Office; and

2. Paying the biennial renewal fee as provided in Rule 1045-02-.01(1)(d).

(Rule 1045-02-.04, continued)

3. Appearing before the Board, a Board member or Board designee for interviews regarding continued competence, if requested after review.

4. The Board, a Board member, or designee after the interview may require remedial education and/or examination passage prior to licensure reinstatement.

5. If reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the reinstatement fee, past due renewal fees, and state regulatory fees as provided in Rule 1045-02-.01; and

(c) Retirees may be allowed to practice temporarily pursuant to T.C.A. §63-8-119(h) upon a written request showing a satisfactory need for re-entry into practice. Board approval must be received and may be granted for only a limited period of time.

Authority: *T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-107, 63-8-112, 63-8-119, and 63-8-120.* ***Administrative History:*** *Original rule filed May 15, 1981; effective July 22, 1981. Repeal and new rule filed November 30, 1990; effective January 14, 1991. Amendment filed August 2, 1995; effective October 16, 1995. Amendment filed July 22, 2002; effective October 5, 2002. Amendment filed April 4, 2003; effective June 18, 2003.*

1045-02-.05 CONTINUING EDUCATION.

~~(1) As a prerequisite to maintaining licensure, an Optometrist must complete thirty (30) hours of Board approved continuing education during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year, effective until December 31, 2015.~~

~~Effective January 1, 2016, an Optometrist with a renewal date in the year 2016 and beyond must complete thirty (30) hours of Board approved continuing education during the twenty-four (24) months that precede the licensure renewal month.~~

(1) Effective January 1, 2020, an Optometrist with a renewal date in the year 2020 and beyond must complete forty (40) hours of Board approved continuing education during the twenty-four (24) months that precede the licensure renewal month.

~~(a) For those who are therapeutically certified, a minimum of twenty (20) of the thirty (30) hours of continuing education is required in courses pertaining to ocular disease and related systemic disease, as described in subparagraph (2)(e). At least two (2) of these twenty (20) hours shall be a course or courses designed specifically to address prescribing practices.~~

(a) For those who are therapeutically certified, a minimum of twenty five (25) of the forty (40) hours of continuing education is required in courses pertaining to ocular disease and related systemic disease, as described in subparagraph (2)(e). At least two (2) of these twenty five (25) hours shall be a course or courses designed specifically to address controlled substance prescribing practices. Any course related to controlled substance prescribing practices must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbituates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.

(b) Each licensee shall maintain current certification in cardiopulmonary resuscitation (CPR). Such certification shall be obtained from a course approved or offered by the American Heart Association, the American Red Cross, or any other entity approved by the board.

(Rule 1045-02-.05, continued)

~~(c) All licensees holding a current Tennessee license shall complete a minimum of two (2) of the thirty (30) required hours of continuing education related to controlled substance prescribing, which must include instruction in the Department's treatment guidelines on opioids, benzodiazepines, barbiturates, and carisoprodol and may include topics such as medicine addiction, risk management tools, and other topics approved by the Board.~~

(c)~~(d)~~ Each licensee must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was required. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.

(d)~~(e)~~ The individual must, within thirty (30) days of a request from the board, provide evidence of continuing education activities. Certificates verifying the individual's attendance or original letters from course providers are such evidence.

(2) Approval of Continuing Education

(a) For those courses requiring Board approval, the information required by subparagraph (2)(d) must be submitted to the Board at least thirty (30) days prior to the actual date of the course. However, no prior approval is required for the following:

1. Educational courses approved by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education.

2. Educational courses sponsored by an organization listed on the Board's website with the Tennessee Department of Health.

(b) Grand rounds of clinical optometric education (grand clinical rounds) performed in clinical treatment facilities shall be credited as follows:

1. One (1) hour of credit is received for two (2) hours of attendance.

2. No more than six (6) hours of continuing education credit during the two (2) year period described in paragraph (1) shall be granted to a licensee for attending grand clinical rounds.

3. Grand clinical rounds must be submitted to the Board for pre-approval.

~~(c) Any one (1) or two (2) hour course designed specifically to address prescribing practices must be pre-approved by the Board.~~

(c) Any course designed specifically to address controlled substance prescribing practices must be pre-approved by the Board or by a vendor approved by the Board for offering such courses.

(d) All courses submitted for approval must contain the following information:

1. a course description or outline;

2. names of all lecturers;

3. brief resume of all lecturers;

4. number of hours of educational credit requested;

(Rule 1045-02-.05, continued)

5. category of approval requested; and

6. date of course.

(e) Courses will be classified by the Board as one (1) of the following categories:

1. Clinical Optometry – These courses shall pertain to general optometry, functional vision/pediatrics, and contact lenses.

2. Ocular Disease – These courses shall pertain to the treatment and management of ocular disease (anterior and posterior), refractive surgery management, peri-operative management of ophthalmic surgery, and glaucoma.

3. Related Systemic Disease – These courses shall pertain to systemic/ocular disease, principles of diagnosis, pharmacology, and neuro-optometry.

~~4. (Optometric) Business Management – These courses shall pertain to practice management and/or ethics/jurisprudence. The total number of (Optometric) Business Management hours that will be accepted is six (6) hours of the thirty (30) hour requirement.~~

4. (Optometric) Business Management – These courses shall pertain to practice management and/or ethics/jurisprudence. The total number of (Optometric) Business Management hours that will be accepted is eight (8) hours of the forty (40) hour requirement.

(f) Continuing education courses may include:

1. Lecture type courses;

~~2. Twelve (12) hours of the thirty (30) hour requirement may be completed in any of the following multi-media formats:~~

2. Fifteen (15) hours of the forty (40) hour requirement may be completed in any of the following multi-media formats:

(i) The Internet

(ii) Closed circuit television

(iii) Satellite broadcasts

(iv) Correspondence courses

(v) Videotapes

(vi) CD-ROM

(vii) DVD

(viii) Teleconferencing

(ix) Videoconferencing

(Rule 1045-02-.05, continued)

(x) Distance learning

(g) Proof of attendance -

1. Proof of attendance must be given to each optometrist attending an approved course by the providers of the course;

2. It is the responsibility of the optometrist attending the continuing education program to ascertain whether the program is approved by the Board and the category of approval.

3. The Board shall notify all providers requiring course approval of its denial or approval. If a course is denied credit for continuing education, the provider of the course may petition the board for a hearing on the merits of the matter. The appeal may be heard by the Board at a regularly scheduled meeting.

4. Waiver of continuing education requirements or extension of the deadline to complete such requirements may be made by the Board on an individual basis as provided in Rule 1045-02-.04 (3).

(3) Continuing Education Tracking System

(a) Each licensee shall submit to the Selected Contractor proof of completion for each continuing education course taken. The proof of completion shall be submitted to the Selected Contractor within thirty (30) days of receipt.

(b) Each licensee is responsible for reviewing the information contained in the system to ensure its accuracy.

(c) Continuing education providers will submit to the Selected Contractor a roster of those Tennessee licensed optometrists who attended the continuing education course. The roster shall be submitted to the Selected Contractor within thirty (30) days after the course date.

(4) A licensee is exempt from the Continuing Education requirements for the calendar year that he/she graduated from an accredited college or school of optometry.

(5) Continuing education course approval decisions pursuant to this rule may be preliminarily made upon review by any Board member or a Board designee.

(6) Violations

(a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

(b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.

(c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.

(Rule 1045-02-.05, continued)

(d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (5)(b) above may be subject to disciplinary action.

(e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-8-112, 63-8-119, and 63-8-120.* ***Administrative History:*** *Original rule filed May 15, 1981; effective July 22, 1981. Amendment filed November 12, 1982; effective December 13, 1982. Amendment by Public Chapter 969; effective July 1, 1984. Repeal and new rule filed November 30, 1990; effective January 14, 1991. Amendment filed February 14, 1994; effective April 30, 1994. Amendment filed December 11, 1998; effective February 23, 1999. Amendment filed January 4, 2002; effective March 20, 2002. Amendment filed July 22, 2002; effective October 5, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed April 4, 2003; effective June 18, 2003. Amendment filed June 10, 2004; effective August 24, 2004. Amendments filed February 26, 2009; effective May 12, 2009. Amendment filed March 2, 2009; effective May 16, 2009; however, stay of the effective date filed by the Tennessee Board of Optometry; new effective date July 13, 2009. Amendments filed August 9, 2012; effective November 7, 2012. Amendment filed July 29, 2015; effective October 27, 2015.*

1045-02-.06 BOARD MEETINGS, MEMBERS' AUTHORITY AND RECORDS.

(1) The board shall meet annually and elect officers.

(2) Minutes of the Board meetings and all records, documents, applications, and correspondence will be maintained in the administrative offices of the Board.

(3) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the administrative office of the Board. Any requests or inquiries requiring a Board decision or official Board action except documents relating to disciplinary actions, declaratory orders or hearing requests must be received fourteen (14) days prior to a scheduled board meeting and will be retained in the administrative office and presented to the Board at the next scheduled Board meeting.

(4) Any member of the Board or a Board designee is vested with the authority to review and preliminarily approve licensure applications and continuing education courses. All such approvals shall be subsequently submitted to the full Board for its consideration for ratification.

(5) The Board shall elect one member to serve as consultant to the Division of Health Related Boards to make determinations for the board in the following areas:

(a) Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.

(b) Whether and under what terms a disciplinary action might be informally settled. Any matter proposed for informal settlement must be subsequently considered by the full Board and either adopted or rejected.

(c) Whether sufficient cause exists for the execution of waivers pursuant to Rule 1045-02-.04(3). Any such decision must be subsequently considered by the full Board and either adopted or rejected.