

Tennessee Board of Optometry



Newsletter



2018

A Regulatory Agency of the State of Tennessee

Fall

665 Mainstream Drive, Nashville, TN 37243 • <http://tn.gov/health> (615) 532-5080 or 1-800-778-4123
Office Hours: Monday – Friday 8:00 a.m. to 4:30 p.m. Central Time (except State and Federal holidays) Fax: (615) 532-5369

THE MISSION OF THE TENNESSEE DEPARTMENT OF HEALTH IS TO PROTECT, PROMOTE AND IMPROVE THE HEALTH AND PROSPERITY OF PEOPLE IN TENNESSEE

2019 Board Meeting Dates

January 16, 2019 (Tuesday)
9:00 a.m., Poplar Room

April 3, 2019
9:00 a.m., Poplar Room

July 10, 2019
9:00 a.m., Poplar Room

October 11, 2019
Tentative – Gatlinburg, TN



All board meetings will be held at 665 Mainstream Drive, Nashville TN, 37228 unless otherwise noted.

Live Streaming Video

If you would like to see your board “in action” but can’t attend a meeting in person, you can now watch the board meeting on your computer through live streaming video. The link is:

<https://web.nowuseit.tn.gov/Mediasite/Catalog/Full/98fe21d561e9489487745f0c7da678b221>. After you access the page, go to the board meeting you wish to view and click on that particular link.

Board Disciplinary Action Available Online

The Tennessee Department of Health issues a monthly media release listing all disciplinary actions taken by the health related boards during the prior month. All action taken by the Board of Medical Examiners is viewable online at:

<https://www.tn.gov/content/tn/health/health-professionals/health-professionals-boards-disciplinary-actions.html>

LAWS
you need to
KNOW

Legislative Updates - 2018

Public Chapter 611

This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in “redline form” to people attending the hearing. This takes effect July 1, 2018.

Public Chapter 638

This chapter prohibits healthcare prescribers and their employees, agents, or independent contractors from in-person solicitation, telemarketing, or telephonic solicitation of victims within 30 days of an accident or disaster for the purpose of marketing services of the healing arts related to the accident or disaster. There are specific exceptions laid out in the chapter. This act takes effect July 1, 2018.

Public Chapter 675

This act requires the department of health to accept allegations of opioid abuse or diversion and for the department to publicize a means of reporting allegations. Any entity that prescribes, dispenses, OR handles opioids is required to provide information to employees about reporting suspected opioid abuse/diversion. That notice is to either be provided individually to the employee in writing and documented by the employer OR by posting a sign in a conspicuous, non-public area of minimum height and width

stating: “NOTICE: PLEASE REPORT ANY SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT TO OPIOIDS, TO THE DEPARTMENT OF HEALTH’S COMPLAINT INTAKE LINE: 800-852-2187.”

Whistleblower protections are also established. An individual who makes a report in good faith may not be terminated or suffer adverse licensure action solely based on the report. The individual also is immune from any civil liability related to a good faith report.

This act takes effect January 1, 2019.

[Public Chapter 744](#)

This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency.

This act took effect January 1, 2019.

[Public Chapter 745 and Public Chapter 793](#)

These public chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies).

These acts take effect July 1, 2018.

[Public Chapter 754](#)

This chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member’s freedom of speech.

Freedom of speech includes, but is not limited to, a member’s freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504.

Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity’s sunset status, rulemaking authority and funding.

This act took effect April 18, 2018.

[Public Chapter 883](#)

This act lays the framework for e-prescribing practices in the state and the exceptions from electronic prescriptions. Requires that all Schedule II prescriptions be e-prescribed by January 1, 2020 except under certain circumstances. Any health-related board under TCA 68-1-101(a)(8) that is affected by this act shall report to the general assembly by January 1, 2019 on issues related to the implementation of this section. The commissioner of health is authorized to promulgate rules to effectuate the purposes of this act.

This act took effect May 3, 2018 for rule purposes.

The act takes effect January 1, 2019 for all other purposes.

[Public Chapter 893](#)

This chapter allows for pharmaceutical manufacturers or their representatives to engage in truthful promotion of off-label uses. The act also prohibits action against pharmaceutical manufacturer’s, pharmaceutical representative’s, healthcare institution’s or physician’s license solely for such activity.

This act takes effect July 1, 2018

[Public Chapter 901](#)

This act requires that prior to prescribing more than a three day supply of an opioid or an opioid dosage that exceeds at total of 180 MME to a woman of childbearing age (15-44yo), a prescriber must do the following:

1. Advise of risks associated with opioid use during pregnancy;
2. Counsel patient on effective forms of birth control; and
3. Offer information on availability of free or reduced cost birth control

Doesn’t apply if previously informed by prescriber in previous three months or prescriber reasonably believes patient is incapable of becoming pregnant. Requirements may be met with a patient under 18 years of age by informing parent of the patient.

The department of health is to publish guidance to assist prescribers in complying with this act.

This act takes effect July 1, 2018.

[Public Chapter 929](#)

This act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the government operations committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule.

This act also prohibits any policy or rule by any agency that infringes upon an agency member’s freedom of speech.

Finally, this act establishes that an agency’s appointing authority shall have the sole power to remove a member from a board, committee, etc.

This act takes effect July 1, 2018 and applies to policies adopted on or after that date.

[Public Chapter 954](#)

This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act.

This act takes effect January 1, 2019.

[Public Chapter 964](#)

This legislation requires the department of children’s services (DCS) to develop instructional guidelines for child safety training programs by January 1, 2019 for members of professions that frequently deal with children at risk of abuse. DCS is required to work with each licensing board to ensure any child safety programs created by a licensing board fully

and accurately reflect the best practices for identifying and reporting abuse as appropriate for each profession. This act took effect May 15, 2018.

Public Chapter 978

This act makes a number of revisions to opioid treatment regulations. The definition of “nonresidential office-based opiate treatment facility” (OBOT) has been changed to encompass more facilities.

The commissioner of mental health is required to revise the rules of OBOTs to be consistent with state and federal law for such facilities to establish certain new protocols.

Rules regarding OBOTs are to be reviewed each even-numbered year and the department of mental health and substance abuse services shall submit the rules for OBOTs to each health related board that licenses any practitioner authorized by the state to prescribe products for treatment of an opioid use disorder. Each board is required to enforce the rules. Each board is required to post the rules on the board’s website. Violation of a rule is grounds for disciplinary action by the board.

The act also makes revisions to the licensing fees of OBOTs.

The act requires revision of the buprenorphine treatment guidelines.

The legislation also requires (subject to 42 CFR part 2) that dispensing of buprenorphine be subject to the Controlled Substance Monitoring Database (CSMD) requirements.

The act prohibits dispensing of buprenorphine except by certain individuals/facilities and requires pharmacies/distributors to report to the department of health (TDH) the quantities of buprenorphine that are delivered to OBOTs in the state.

The act also makes revisions to the high-volume prescriber list compiled by TDH.

The act requires the comptroller to complete a study of statistically abnormal prescribing patterns. After the study, TDH shall identify prescribers and shall inquire with the boards of action taken against the prescribers and the board is required to respond within 30 days. Each board is required to report the total number of prescribers disciplined each year, as well as other information. TDH shall report a summary of the data and of the disciplinary actions to the chairs of the health committees.

The act also comprises a task force to create minimum disciplinary actions for prescribing practices that are a significant deviation from sound medical judgment. The board of medical examiners, osteopathic examination, dentistry, podiatric medical examiners, optometry, nursing and medical examiner’s committee on physician assistants shall select one member each for the task force before September 1, 2018.

This act took effect for rulemaking on May 21, 2018 and takes effect July 1, 2018 for all other purposes.

Public Chapter 1007

This act allows for a prescription for a controlled substance to be partial filled if requested by the patient or the practitioner who wrote the prescription AND the total quantity dispensed through partial fills does not exceed the total quantity

prescribed for the original prescription. The act lays out the requirements on the pharmacists and gives details regarding payments.

This act takes effect January 1, 2019.

Public Chapter 1021

This act allows for appeals of contested case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person’s discretion, in the chancery court nearest the place the action arose, or in the chancery court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency’s final order.

This act takes effect July 1, 2018.

Public Chapter 1037

This act clarifies that a physician may accept goods or services as payment in a direct exchange of barter for healthcare services provided by the physician if the patient to whom the healthcare services are provided is not covered by health insurance coverage. This does not apply to healthcare services provided at pain management clinics.

This act takes effect July 1, 2018.

Public Chapter 1039

This legislation places limits and requirements on the amount of opioids prescribed and dispensed. It limits opioid prescriptions to up to a three day supply with a total of 180 MME (morphine milligram equivalents) for those three days. This limitation is subject to a number of exceptions under certain circumstances. These exceptions include up to a ten day supply with a total of 500 MME, up to a twenty day supply with a total of 850 MME for a procedure that is more than minimally invasive, and up to a thirty day supply with a total of 1200 MME when other reasonable and appropriate non-opioid treatments have been attempted and failed and the risk of adverse effects from the pain exceeds the risk of the patient developing an addiction or overdose. Prescribing under these exceptions requires the prescriber to check the controlled substance monitoring database, personally conduct a physical exam of the patient, consider non-opioid alternatives, obtain informed consent including counseling about neonatal abstinence syndrome and contraception for women of childbearing age, and document the ICD-10 code for the patient’s primary disease (as well as the term “medical necessity” on thirty day prescriptions). These ten, twenty, and thirty day opioid prescriptions will only be filled by dispensers in an amount that is half of the full prescription at a time, requiring patients and pharmacists to consider whether the patient requires the full amount prescribed. There are still further exceptions for those patients undergoing active or palliative cancer treatment, receiving hospice care, diagnosed with sickle cell disease, administered to in a hospital, being treated by a pain management specialist or collaborating provider in a pain management clinic, who have received ninety days or more in the year prior to April 2018 or subsequently do so under one of the exceptions, receiving treatment for medication-

assisted treatment, or suffering severe burns or major physical trauma.

This act took effect for rule purposes on May 21, 2018, and for all other purposes shall take effect July 1, 2018.

Public Chapter 1040

This act revises various provisions of the law regarding controlled substances and their analogues and derivatives, including updating identifications of drugs categorized in Schedules I - V. The act also creates an offense for the sale or offer to sell Kratom, unless it is labeled and in its natural form. It is also an offense to distribute, sell, or offer for sale, kratom to a person under 21 years of age. It is also an offense to purchase or possess kratom if under 21 years of age.

This act takes effect July 1, 2018.

Statistical Information Regarding Licensees

Profession	Total Number	Last 12 Months
Optometrists	1298	79

Policy State on Injectable Certification & Licensure

TENNESSEE BOARD OF OPTOMETRY POLICY STATEMENT ON INJECTABLE CERTIFICATION AND LICENSURE

DATE January 9, 2018

Tennessee Board of Optometry rules require that all new applicants for licensure complete ALL parts of the NBEO exam, and that all Tennessee optometrists be certified in the therapeutic use of injectable drug products. However, the Board recognizes that there are optometrists who may have been licensed in other states prior to the inclusion of Part 3 of the NBEO exam.

When an optometrist whose initial date of licensure was prior to 2012 applies for a Tennessee license, the Board may waive the exam requirement upon a demonstration of the applicant's clinical competency in the use of injectables. This clinical competency may be demonstrated through provision of transcripts or other documentary proof that injectable certification was obtained while the applicant was in optometry school, or that such certification was obtained through a course offered by a provider recognized by the Board.

This waiver is available only to applicants who were initially licensed prior to the inclusion of Part 3 of the NBEO exam on 8/1/2012.

Lapsed License Policy

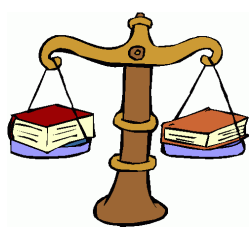
The Board of Optometry ("Board") recognizes that an individual may inadvertently allow his/her license to expire.

However, applicable law prohibits an individual from working as an optometrist unless he/she has an active license. While the Board does not condone an individual working on an expired license, the Board recognizes that these inadvertent lapses can occur. As such, the Board has adopted the following procedures for reinstatement of an expired license.

1. Immediately upon recognition that his/her license has expired, the individual must cease practicing and contact the Board's administrative office to request a reinstatement application.
2. Upon receipt of the reinstatement application, the individual is to complete the application in its entirety, providing a detailed work history since the license expiration date. The application is to be signed, notarized, and returned to the Board's administrative office along with any additional information and all fees specified in the instructions. The individual must submit proof of documentation of continuing education requirements taken within the previous twelve (12) months.
3. Upon receipt of a completed reinstatement application, supporting documentation (including any required proof of continuing education), and the applicant's payment of all fees, the Board's administrator may reinstate a license which has been in an expired status for less than ninety (90) calendar days. Although the Board and administrative staff recognize the applicant's urgent interest in having his or her license reinstated, preferential treatment will not be given to these applicants. All applications are reviewed in the order in which they are received.
4. If the work history reflects that the individual has practiced in excess of ninety (90) calendar days, but less than six (6) months on an expired license, the Board will present to the licensee an Agreed Citation which specifies payment of a fine in the amount of \$100 per month for every month in which the individual has worked at least one day beyond the ninety (90) calendar day grace period. The individual's license will not be reinstated unless and until the Agreed Citation is executed by the licensee and payment of the fine remitted to the Board's administrative office.
 - A. The licensee shall be notified that all Agreed Citations prepared in accordance with this policy shall be reportable on the Department of Health's website, its disciplinary action report issued in the month the action is taken, and to all appropriate federal databanks including the National Practitioner Data Bank.

- B. This remedy is only available to those optometrists who have practiced on a lapsed license for less than six (6) months from the date the license went into expired status.
5. If the licensee refuses to execute the Agreed Citation and/or remit the civil penalty described therein within sixty (60) days of the date the Agreed Citation is sent to the licensee, or if the licensee practiced on a lapsed license for six (6) months or longer, the licensee shall be referred to the Office of Investigations and Office of General Counsel for formal disciplinary action. Upon a proven violation, the minimum disciplinary action for this violation shall be:
- A. A formal and reportable Reprimand on the license;
 - B. Assessment of civil penalties in an amount to exceed \$500 per month for every month in which the individual has worked at least one day beyond the ninety (90) calendar day grace period;
 - C. Assessment of costs associated with investigating and prosecuting the matter; and
 - D. Any and all other remedies the Board deems appropriate.

Discipline for lapsed licenses is reportable to the national databanks as well as the Department's Disciplinary Action report.



RULE AMENDMENTS

There have been no new rule amendments. The entire text of the rules can be found at:

<https://publications.tnsosfiles.com/rules/1045/1045.htm>

Professional Privilege Tax

TENN. CODE ANN. §67-4-1701, et seq., requires the payment of an annual professional privilege (occupation) tax. The law requires your licensing board to refuse to allow you to renew your professional license if you fail to pay your professional privilege tax. Upon receipt of certification from the

Department of Revenue that a licensee is in arrears more than 90 days, the law requires that your ability to renew your license be held in abeyance until our office receives a written tax clearance from the Department of Revenue. Avoid any interruption in your ability to practice your profession by remitting your tax to the Department of Revenue in a timely fashion.

<https://www.tn.gov/revenue/taxes/professional-privilege-tax.html>

If you have moved out-of-state, but maintain a license, you are still responsible for paying the Professional Privilege Tax. If your license is in "active" status as of June 1 of any year, no matter if you live in Tennessee or out-of-state, you are required to pay the yearly professional privilege tax.

Note: The Board of Optometry does not assess this tax.

Electronic Applications

Applying for initial licensure from your professional licensing board has become a bit easier. For the past year, the Department of Health has been working on an online application process that will allow all health care professionals to apply online for an initial license and complete (and update as necessary) a practitioner profile mandatory for certain professions. The process is user friendly and convenient and even allows you to pay for your initial application utilizing a credit card, debit card or e-check. You will also be able to upload many of the documents required to complete your initial application!

<https://lars.tn.gov/datamart/mainMenu.do>

Electronic Notification for Licensed Health Professionals

On January 1, 2013, a new law became effective requiring all Tennessee health professional boards to provide electronic notices to healthcare professionals they license. The law gives healthcare professionals the option of being notified electronically of the following: (1) Renewals of license, certification or registration; (2) Any fee increases; (3) Any changes in state law that impact the license holder; and (4) Any board meeting where changes in rules or fees are on the agenda. If a healthcare professional "opts in", the Department of Health will also be able to alert him or her of critical public health matters impacting Tennessee. Please visit <https://lars.tn.gov/datamart/mainMenu.do> and complete the registration process to opt in. Upon receipt of a current email address, those who opt in will begin to receive ALL notices electronically rather than through the United States mail. Please note opting in means license renewal notification will be delivered electronically approximately 45 days in advance of the expiration date. The electronic notice will direct the licensee to the appropriate Web page to renew. For professions that do not permit licensees to renew

their licenses online, a paper renewal will continue to be provided. For more information, contact the Health Professional Boards office at 615-532-5080 or toll-free at 1-800-778-4123.

Renew Your License Online



Whether you receive a paper renewal form or not, you can still renew your license online. This is faster, more convenient, and you can use a credit card to pay the renewal fees. Just go to <https://lars.tn.gov/datamart/login.do> to renew your license. You may renew up to 45 days prior to the expiration date.

If you are a new user you will need to sign-up to renew your license and update your professional license information. *Licensees are responsible for renewing their licenses on time and keeping the Board apprised of current information. It is a violation of the law and of the Board's rules to practice on an expired license.*

-Step 1: Login - Select our board and your profession and enter your license number.

-Step 2: Update your Information - Change your home and/or office address.

-Step 3: Enter your renewal information - Answer all necessary questions, as if you were completing your hard-copy form.

-Step 4: Payment - Enter your credit card information through the secure site and choose "submit".

If you have met all of the criteria necessary, your renewal certificate will be mailed to you in approximately two weeks. Updated license information will be available on the department's web site within two business days.

Retirement of License

If you are not practicing in Tennessee and do not wish to renew your license, it is suggested you retire your license rather than have it fall into failed to renew status. A retirement form may be obtained at our website at:

<https://www.tn.gov/content/dam/tn/health/documents/PH-3460.pdf>

If you do not have access to the internet, you may request a retirement form be mailed to you. (See Board address on page 4.) **Note: you cannot retire an expired license.**

Practitioner Profile

When you notify the board of an address or name change, please remember to update your practitioner profile.

The Practitioner Profile can be found at:

<https://www.tn.gov/content/dam/tn/health/healthprofboards/PH-3585.pdf>

Office of Investigations



The Office of Investigations is responsible for receiving and processing all complaints for the licensure boards. To file a complaint, please contact the Office of Investigations at 1-800-852-2187 or visit our website at <https://www.tn.gov/content/tn/health/health-program-areas/health-professional-boards/report-a-concern.html> where you may download and print out the complaint form.



Have you moved/changed your name?

Must be reported in writing or by e-mail to the board's office within 30 days! Please include the following:

- your name and license number;
- your profession;
- your old address and phone number;
- your new address and phone number, e-mail address, and/or your fax number;
- your signature!
- If your name has changed due to marriage or divorce, you must send a copy of the document that made the change in status.

Keeping the board's administrative staff up to date on your location facilitates the timely notification to you of important information such as your application for licensure renewal and important statutory and rule changes.

A form for the change of address/name can be found at:

<https://www.tn.gov/content/dam/tn/health/documents/PH-3619.pdf>

You may fax your change to the board's administrative office at (615) 532-5369 or by mail at: 665 Mainstream Drive, Nashville, TN 37243.

To Contact This Board Call:

**(615) 532-5080 local or (800) 778-4123
nationwide or write to:**

**Tennessee Board of Optometry
665 Mainstream Drive
Nashville, TN 37243**



BOARD MEMBERS

Christopher H. Cooper, O.D.
Torrey Carlson, O.D.
Linda Tharpe, O.D.
Jennifer Uhl, O.D.
Nancy P. Strawn, Consumer Member
Vacant Position

BOARD STAFF

Yvette Hernandez
Board Administrator
Yvette.Vagle@tn.gov

Darrel Traynor
Licensing Technician
Darrel.Traynor@tn.gov

Kimberly Hodge
Interim Director
Kimberly.Hodge@tn.gov