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Effective Date: 10/27/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Board of Optometry
Division:	
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. 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-.05	Continuing Education
1045-02-.07	Diagnostic and Therapeutic Certification

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

1045-02
General Rules Governing the Practice of Optometry

Amendments

Rule 1045-02-.05 Continuing Education is amended by deleting subparagraphs (1)(a) and (1)(b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1)(a) and (1)(b) shall read:

- (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.
- (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.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 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) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2)(c) shall read:

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

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-8-112, 63-8-119, and 63-8-120.

Rule 1045-02-.07 Diagnostic and Therapeutic Certification is amended by deleting subparagraph (3)(d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3)(d) shall read:

- (d) No therapeutically certified optometrist shall use pharmaceutical agents by injection except to counter anaphylaxis until they have received approval from the board. The board will not approve the use of injections until the optometrist demonstrates to the board's satisfaction sufficient educational training and/or clinical training, and submits proof of current certification in cardiopulmonary resuscitation (CPR). The education must 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.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-8-102, 63-8-112, and 63-8-115.

* 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)
David Talley				X	
Jeff Foster	X				
John Gentry	X				
Richard Orgain	X				
Dennis Matthews	X				
Kimberly Button				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Optometry (board/commission/ other authority) on 06/11/2014 (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: 01/09/14(mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 06/11/14 (mm/dd/yy)

Date: July 14, 2015

Signature: *Matthew Gibbs*

Name of Officer: Matthew Gibbs

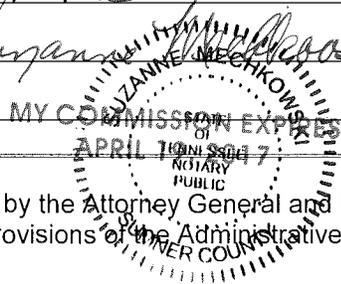
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 7-14-15

Notary Public Signature: *Dunnette Mechkow*

My commission expires on: APRIL 19 2017



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

7-24-15

Date

Department of State Use Only

Filed with the Department of State on: 07/29/15

Effective on: 10/27/15

2015 JUL 29 PM 3:52

RECEIVED

Tre Hargett

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

John Williams, a representative of the Tennessee Association of Optometric Physicians (TAOP), addressed the Board in support of the rule amendments and urged the Board to adopt the rules as contained in the Notice of Rulemaking Hearing.

The Board voted to adopt the rules as contain in the Notice of Rulemaking Hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

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

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

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

These proposed rule amendments exhibit clarity, conciseness, and lack of ambiguity.

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

These proposed rule amendments establish flexible compliance and/or reporting requirements for small businesses.

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

These proposed rule amendments do not establish schedules or deadlines for compliance.

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

These proposed rule amendments do not consolidate compliance or reporting requirements for small businesses.

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

These proposed rule amendments do not establish performance standards for small businesses.

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

These proposed rule amendments do not create any barriers or other effects that stifle entrepreneurial activity.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Optometry

Rulemaking hearing date: February 26, 2013

- 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:**

These proposed rule amendments will affect those licensees engaged in the practice of optometry. These licensees will bear the cost of, and/or directly benefit from the proposed rule.

- 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:**

There should be no reporting, recordkeeping or other administrative costs required for compliance with these proposed rule amendments. The costs of compliance will be left relatively unchanged as the total number of required education hours has not changed.

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

These proposed rule amendments should have no effect or impact on small businesses and consumers.

- 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 of these proposed rule amendments.

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

Federal: None.

State: Almost all health related boards have some type of continuing education requirements and all such boards will be amending requirements to comply with Public Chapter 430.

- 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 rule amendments may not provide exemptions for small businesses as the rule amendments are required to comply with state law.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "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 financial impact on local governments."

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 rule amendments will require all licensees to obtain certification in CPR (cardiopulmonary resuscitation). They will also require that CPR education and certification 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. For those who are therapeutically certified, the amendments will increase the required number of continuing education hours in courses designed specifically to address prescribing practices from one (1) to two (2).

- (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;

These rules affect those licensees engaging in the practice of optometry in Tennessee.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to 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 rule amendments should not create any increase or decrease in state and local government revenues.

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

Matthew Gibbs, Assistant General Counsel, possesses substantial knowledge and understanding of the rule.

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

Matthew Gibbs, Assistant General Counsel, will explain the rule at a scheduled meeting of the committees.

- (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, Tennessee 37243, (615) 741-1611, Matthew.Gibbs@tn.gov.

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

None.

(Rule 1045-02-.04, continued)

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.
 - ~~(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)(c). At least one (1) of these twenty (20) hours shall be a course designed specifically to address prescribing practices.~~
 - (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.
 - ~~(b) For those therapeutically certified optometrists who have received approval to use pharmaceutical agents by injection pursuant to subparagraph 1045-02-.07 (3)(d), current certification in cardiopulmonary resuscitation (CPR) is required.~~
 - (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.
 - (c) 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) 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:

(Rule 1045-02-.05, continued)

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

(Rule 1045-02-.05, continued)

Business Management hours that will be accepted is six (6) hours of the thirty (30) 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:
 - (i) The Internet
 - (ii) Closed circuit television
 - (iii) Satellite broadcasts
 - (iv) Correspondence courses
 - (v) Videotapes
 - (vi) CD-ROM
 - (vii) DVD
 - (viii) Teleconferencing
 - (ix) Videoconferencing
 - (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.

(Rule 1045-02-.05, continued)

- (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.
 - (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.

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,

(Rule 1045-02-.06, continued)

- 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.
 - (d) Whether and under what conditions a licensee who has failed to timely renew pursuant to Rule 1045-02-.04(4) may be allowed to renew. All such actions must be subsequently considered by the full Board and either adopted, rejected or modified.
 - (e) Whether and under what circumstances a retired license may be reinstated. All such decisions must be subsequently considered by the full Board and either, approved, rejected or modified.
 - (6) Reconsiderations and Stays – The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.
 - (7) Requests for written verification of a licensee's current status or a Certificate of Identification (Certificate of Fitness in Division Law) must be made in writing to the Board administrative office.
 - (8) Requests for duplicate or replacement licenses must be made in writing to the Board administrative office and contain the information required by T.C.A. §63-8-112(9) and be accompanied by the fee provided in Rule 1045-02-.01(1)(c).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-142, 63-8-111, 63-8-112, 63-8-112(1), 63-8-112(8), 63-8-112(9), 63-8-107(a), 63-8-107(b), 63-8-115, 63-8-119, 63-8-120, 63-8-120(b), 63-8-120(d), 63-8-121, and Public Chapter 295, Acts of 1993. **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 July 22, 2002; effective October 5, 2002. Amendment filed February 26, 2009; effective May 12, 2009.

1045-02-.07 DIAGNOSTIC AND THERAPEUTIC CERTIFICATION.

- (1) It is the intent of the Board that all applicants for licensure as optometrists attain the highest level of licensure available under the law including diagnostic and therapeutic certification as provided in T.C.A. §§63-8-102(12)(E) and 63-8-112(4). Attaining therapeutic certification must include attaining certification to use pharmaceutical agents by injection.

(Rule 1045-02-.07, continued)

- (2) **Diagnosis Certification.** Any applicant who submits or has submitted a transcript which contains at least six (6) quarter hours in the courses provided in T.C.A. §63-8-102(12)(E) and becomes or became licensed to practice Optometry in Tennessee shall be diagnostically certified.
- (3) **Therapeutic Certification:**
 - (a) To certify optometrists to administer and prescribe pharmaceutical agents for treatment, perform primary eye care procedures, the performance or ordering of procedures and laboratory tests rational to the diagnosis of conditions or diseases of the eye or eyelid. No optometrist shall be certified to prescribe or use pharmaceutical agents for treatment purposes in the practice of optometry unless and until he meets all of the following:
 1. Show evidence to the Board by providing a certified transcript of ninety (90) classroom hours in pharmacology and sixty (60) classroom hours in ocular disease from a college or university which is accredited by an agency approved by the Council on Post Secondary Education of the U.S. Department of Education.
 2. Show evidence to the Board by providing a certified transcript from a college or university which is accredited by an agency approved by the Council on Post Secondary Education of the U.S. Department of Education, of forty (40) hours of clinical experience acquired on or after April 22, 1987. The clinical experience is to include diagnosis and treatment of ocular disease including the use of pharmaceutical agents.
 3. Be diagnostically certified, as provided in T.C.A. §63-8-102(12)(E) and paragraph (2) of this rule.
 4. Has taken and successfully passed the examination administered or approved by the board.
 - (b) All optometrists licensed to practice in Tennessee who are therapeutically certified by the board must show the board by proof of completion of the following clinical review courses by 7/1/94, or their equivalent obtained from the experience of current practice and licensure in a state with a similar scope of practice act. The clinical review courses are:
 1. A 24 hour board approved transcript quality credit clinical course as it relates to the diagnosis, treatment, and management of glaucoma.
 2. A 6 hour board approved transcript quality credit course as it related to the clinical application of oral medication necessary for the treatment of diseases of the eye/eyelid including the use of controlled substances.
 - (c) These courses may count toward meeting the annual continuing education requirements as determined by the Board. Any optometrist not completing these requirements will be subject to therapeutic privilege suspension until such time as the clinical review is complete. Any optometrist aggrieved by the Board's written decision suspending his or her therapeutic certification privileges shall have 30 days from the date such decision is received to request a contested case hearing under the provisions of the Uniform Administrative Procedures Act. The board will extend the July 1, 1994 deadline date only in cases of hardship as determined by the board.

(Rule 1045-02-.07, continued)

Graduates of accredited schools of optometry after May 5, 1993 are excluded from these requirements. In order to obtain therapeutic certification, any optometrist graduating before May 5, 1993 must meet the requirements of Rule 1045-02-.03 and must complete the clinical review courses prior to licensure.

~~(d) No therapeutically certified optometrist shall use pharmaceutical agents by injection except to counter anaphylaxis until they have received approval from the board. The board will not approve the use of injections until the optometrist demonstrates to the board's satisfaction sufficient educational training and/or clinical training, and submits proof of current certification in cardiopulmonary resuscitation (CPR). The education must be obtained from board approved courses.~~

(d) No therapeutically certified optometrist shall use pharmaceutical agents by injection except to counter anaphylaxis until they have received approval from the board. The board will not approve the use of injections until the optometrist demonstrates to the board's satisfaction sufficient educational training and/or clinical training, and submits proof of current certification in cardiopulmonary resuscitation (CPR). The education must 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.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-8-102, 63-8-112, and 63-8-115. **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 February 14, 1994; effective April 30, 1994. Amendment filed January 4, 2002; effective March 20, 2002. Amendment filed March 22, 2007; effective June 9, 2007.

1045-02-.08 CORPORATE OR BUSINESS NAMES AND ADVERTISING.

- (1) Policy Statement. The lack of sophistication on the part of many members of the public concerning optometric services, the importance of the interests affected by the choice of an optometrist and the foreseeable consequences of unrestricted advertising by optometrists, require that special care be taken by optometrists to avoid misleading the public. The optometrist must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by optometrists is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions.
 - (a) Advertisement. Informational communication to the public in any manner designed to attract public attention to the practice of an optometrist who is licensed to practice in Tennessee.
 - (b) Licensee. Any person holding a license to practice optometry in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
 - (c) Material Fact. Any fact which an ordinary reasonable and prudent person would need to know or rely upon making an informed decision concerning the choice of practitioners to serve his or particular optometric needs.
 - (d) Bait and Switch Advertising. An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise, in order to sell something usually at a higher fee or on a basis more advantageous to the advertiser.