Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615.741.2650
Fax: 615.741.5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 12-05-13
Notice ID(s): 2098
File Date: 12/11/13

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Department of Health/Board of Optometry
Division:	Health Related Boards
Contact Person:	Jeff Foster, O.D.
Address:	665 Mainstream Drive, Poplar Room, Nashville, TN 37243
Phone:	(615) 532-5100
Email:	gbulso@leaderbulso.com

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Paul Krog
Address:	414 Union Street, Suite 1740, Nashville, TN 37219
Phone:	(615) 780-4115
Email:	pkrog@leaderbulso.com

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	665 Mainstream Drive		
Address 2:	Poplar Room		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	02/26/14		
Hearing Time:	9:00am	_X_CST/CDT ___EST/EDT	

Additional Hearing Information:

Revision Type (check all that apply):

___ Amendment
_X_ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. 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-.17	Prohibition Upon the Practice of Optometry In Or In Conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise Is Displayed Or Offered for Sale

Chapter Number	Chapter Title
Rule Number	**Rule Title**

(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)

Rule 1045-02-.17 Prohibition Upon the Practice of Optometry In Or In Conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise Is Displayed Or Offered for Sale is created pursuant to the following language:

(1) Pursuant to T.C.A. §§ 63-8-113(c)(6) and 63-8-125, a licensed optometrist shall practice in a location that is independently operated and is physically separate from a retailer of ophthalmic materials or other commercial establishment pursuant to the following requirements:

(a) After July 1, 2014, there shall be a permanent structural separation between a licensed optometrist's office and any retailer of ophthalmic materials or other commercial establishment;

(b) The permanent structural separation, such as a wall, shall not contain a door or any other opening that leads directly to a retailer of ophthalmic materials or other commercial establishment;

(c) The licensed optometrist's office shall have an entrance for patients that opens directly onto a public street, lobby, corridor, or other public thoroughfare; and

(d) A retailer of ophthalmic materials or other commercial establishment shall not, either directly or indirectly, control or attempt to control the professional judgment or practice of the licensed optometrist.

(2) A lease between a licensed optometrist and a retailer of ophthalmic materials or other commercial establishment shall not be deemed a violation of T.C.A. §§ 63-8-113(c)(6) and/or 63-8-125 solely on the basis that the rental payments are based, in whole or in part, on the revenue earned by the licensed optometrist from his/her practice.

(3) Violation of this rule may subject a licensee to disciplinary action pursuant to Rule 1045-02-.10.

Authority: T.C.A. §§ 63-8-113 and 63-8-125

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: December 10, 2013

Signature:

Name of Officer: Jeff Foster, O.D.

Title of Officer: Chairman, Tennessee Board of Optometry

Subscribed and sworn to before me on: 12/10/13

Notary Public Signature: Sandra K. Jenkins

My commission expires on: 03/26/2016

SANDRA K. JENKINS STATE OF TENNESSEE NOTARY PUBLIC COFFEE COUNTY

Department of State Use Only

Filed with the Department of State on: 12/11/13

Tre Hargett
Secretary of State

RECEIVED 2013 DEC 11 AM 9:51 OFFICE OF SECRETARY OF STATE