

NEVADA STATE BOARD OF OPTOMETRY



CHEN K. YOUNG, O.D.
Board President

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Board Vice-President

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JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

Meeting Materials

May 21st, 2019

Board Meeting

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AGENDA & NOTICE OF PUBLIC MEETING

The Nevada State Board of Optometry
will hold a **telephonic** meeting
Tuesday, May 21, 2019 at 12 Noon

The public is invited to attend telephonically, (712) 451-0223, Access code: 292304,
or participate at the Board's physical location at 937 Mica Dr. #17 in Carson City

AGENDA

Pursuant to NRS 241.020(6) PLEASE TAKE NOTICE: (1) Items on the agenda may be taken out of order, (2) two or more agenda items may be combined for consideration; and (3) at any time, items on the agenda may be removed from the agenda or discussion of the items may be delayed.

***INDICATES ACTION MAY BE TAKEN.**

1. **Welcome, Introductions and Public Comment.**
A time limit may be set for each individual wishing to address the Board. No action will be taken on any issue initially presented either in public comment or during the Board Meeting. In accordance with the Nevada Open Meeting Law, an issue requiring action may be placed on an agenda for a future Board Meeting.
2. **Call to Order, Roll Call.**
3. ***For Possible Action.** Consideration and approval of the **minutes** of January 29, 2019, February 7, 2019, March 5, 2019 and March 26, 2019 Optometry Board meetings. (Materials provided)
4. ***For Possible Action.** Discussion of optometry-related measures in the 2019 Nevada **Legislative Session**, and planning for implementation of the same and preparation for the review and modification of NAC Chapter 636. (Materials provided.)
Presented by Lucas Foletta, Esq., Board Lobbyist, Mariah Smith, O.D., Board Vice-President and Legislative Liaison, and Caren C. Jenkins, Executive Director.

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5. ***For Possible Action.** Financial Reports and Budgeting. (Materials provided.)
 - A. Consideration and approval of **2018 Audit** Report.
 - B. Consideration and approval of **2018-2019 Budget** Report to date.
 - C. Consideration and approval of **proposed FY 2019-2020 Budget**.
 6. ***For Possible Action.** Consideration of **Complaints**. (Materials provided)
 - A. Complaint No. 19-16 - Proposed Stipulated Settlement and Order.
 - B. Complaint No. 19-18 - Just and Sufficient Cause Determination.
 - C. Case No. 18-17 - Petition for Rehearing, followed by Rehearing, if Petition granted.
 7. Announcements and requests for **future Board consideration** (No action to be taken at this meeting). **NEXT BOARD MEETING is scheduled for June 25, 2019 in person in Reno or Carson City.**
 8. **Public Comment.**

A time limit may be set for each individual wishing to address the Board. No action will be taken on any issue initially presented either in public comment or during the Board Meeting. In accordance with the Nevada Open Meeting Law, an issue requiring action may be placed on an agenda for a future Board Meeting.
 9. ***For Possible Action.** Adjournment.

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The Board posted this notice at the board office, on the board website (nvoptometry.org), the State of Nevada Public Notices website (<https://notice.nv.gov>) and in the following locations:

Office of the Nevada Attorney General at 5420 Kietzke Lane, Reno &
555 E. Washington Ave. #3900, Las Vegas; and
Douglas County Courthouse, 1616 8th Street, Minden.

The Board will take reasonable measures to accommodate persons with disabilities who wish to attend the meeting. Please call Executive Director Caren C. Jenkins at (775) 883-8367 in advance to make arrangements.

MEETING MATERIALS: To view the meeting materials provided to the Board in advance, if any, visit www.nvoptometry.org, or obtain a hard copy 5 days in advance by emailing a request to admin@nvoptometry.org.

MEETING MATERIALS FOR AGENDA ITEM 3

Consideration and approval of the **minutes** of
January 29, 2019, February 7, 2019, March 5,
2019 and March 26, 2019

NV Optometry Board meetings

May 21, 2019

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MINUTES

THE NEVADA STATE BOARD OF OPTOMETRY REGULAR MEETING Tuesday, January 29, 2019 at 9:00 a.m.

1. **Welcome, Introductions and Public Comment.**

President Young confirmed that the video and audio recording between Las Vegas and Carson City was operating. No public comment was offered from the North or the South.

2. **Call to Order, Roll Call.**

Dr. Young called the meeting to order at 9:05 a.m. at the Grant Sawyer State Office Bldg. in Las Vegas. All Board members were present, along with staff: Caren C. Jenkins, Executive Director, and Laura Adair, Licensing Specialist. Senior Deputy Attorney General Sarah Bradley, Board Counsel, participated via video teleconference from Carson City.

Maria Nutile, Esq. representing Dr. Mark Peller, and Dr. Peller himself, Dr. Emilie Ritter, and several members of the NV Opticians Board and NV Optometric Association were present.

3.* **For Possible Action. Consideration and approval of minutes of November 13, 2018 Board meeting. (materials available).**

Dr. Austin moved to approve the minutes of 11/13/18 as presented, seconded by Dr. Smith. Approved unanimously.

4.* **For Possible Action. Election and Appointment of Board Officers & Liaisons.**

a. Election of Board President and Board Vice-President/Financial Officer

Dr. Smith moved, seconded by Dr. Austin. to nominate Dr. Young to continue as President of the Board. No other nominations were presented. All voted in favor, none opposed. Motion carried.

Dr. Austin nominated and Dr. Young seconded that Dr. Smith to continue as Board Vice-President/Financial Officer. No other nominations, all voted in favor, none opposed. Motion carried.

- b. Appointment of Board Legislative Liaison(s). Determination of scope of authority granted to Liaison(s) and Executive Director in furtherance of AB 77 and in response to other legislative action during the 2019 Legislative Session.

Dr. Austin moved, and Mr. Johnson seconded that Dr. Smith be appointed as the Board Legislative Liaison for the 2019 legislative session, and be granted Board authority to speak on behalf of the Board regarding changes to AB 77. The Legislative Liaison is encouraged, whenever possible, to seek input from one other Board member via telephone before agreeing to changes, but if not possible, has ultimate decision-making authority. Ms. Bradley requested this motion be revised to include authority to speak and make decisions regarding any legislative issues that come up during the session. Dr. Austin and Mr. Johnson agreed to modify the motion. All voted in favor of the revised motion, none opposed. Motion carried.

- c. Resolution in support of Dr. Smith's application for ARBO Founder's Scholarship. Dr. Young proposed and read a letter nominating Dr. Smith for a scholarship to attend the ARBO Annual Meeting in June 2019 through the John D. Robinson Founder's Award fund. Dr. Austin moved that the board approve the letter and send it to ARBO right away, Mr. Johnson seconded, all voted in favor, none opposed. Motion carried.

5.* **For Possible Action. Board Consideration of Complaints.** Conduct hearings and consider evidence and/or settlement proposals to determine existence of any violations, impose sanctions as appropriate.

- a. Complaint No. 18-19, Helen Knisley, O.D., alleged employee misconduct.

Director Jenkins noted that although the complaint named Dr. Knisley, she provided no services to the Complainant that day. Her colleague, Dr. Schore treated the Complainant. The complaint alleged that the optometrist was intoxicated, stumbled, bumped into the patient, and failed to treat the patient properly. The Executive Director determined from a site visit and interviews that no alcohol was involved, but Dr. Schore had been involved in an auto accident for which his treatment caused him to be unsteady at times, and that he may have stumbled or bumped into the patient.

Director Jenkins recommended that the complaint be dismissed for lack of substantial evidence to support the allegations of practicing optometry while intoxicated or unprofessional behavior. Dr. Smith moved to dismiss the complaint for insufficient evidence, and Mr. Johnson seconded. All voted in favor, none opposed. Motion carried.

Director Jenkins recommended that the board move to Item 5(d) because its outcome may affect Item 5(b).

d. Consolidated Complaint Nos. 19-01 & 19-12 **Erin O'Brien, O.D., Thuytien Mai, O.D., and Mark Peller, O.D.**, alleged optometrists co-mingled operations with Nationwide Vision Centers' corporate interest, other misconduct.

NOTE: Investigatory Board Member Drew Johnson was excluded from the deliberations and vote on this agenda item.

Director Jenkins presented an overview of the Accusation and Notice of Hearing and recommended that the board ask Respondents' counsel, Maria Nutile, Esq. and Respondent Peller to come to the table to assist its determination whether an evidentiary hearing will be required.

Dr. Young swore in the witnesses. Ms. Nutile stated that the laws vary in each state regarding professional health practices. She stated that in 2016 when Nationwide Optometry of Nevada was being formed, both she and Dr. Peller contacted the board for guidance, but neither received a response. Louis Ling, Esq., Board Counsel at that time offered some information about the structure and management of optometry practices.

Ms. Nutile had been retained to appear at this hearing just three weeks before the meeting. She recently began working with Director Jenkins to address certain administrative issues. Ms. Nutile confirmed that Dr. Peller's leases, agreements, accounting funds, medical records, etc. are now all separate from Nationwide Vision Center in compliance with NV law. Business licenses are still pending, but all other overlapping authority has been brought into compliance and there has been no compromise in patient care.

Ms. Nutile also noted some other administrative irregularities in other practices, e.g., no O.D. name posted on the front door. She suggested that all optometrists periodically review their practices for administrative compliance regarding signs, agreements, advertising and separate spaces, as the laws and their application demand constant oversight.

Ms. Nutile requested the Board take no disciplinary action against Dr. Peller but suggested an amnesty or moratorium period on all discipline for 60-90 days until further information and education can be disseminated regarding ownership, separateness, and advertising requirements. She offered to assist in that effort for the benefit of all licensees.

Dr. Peller made a statement to the board, acknowledging that that mistakes were made in the establishment of his Nevada practice, however he did not intend to circumvent or avoid the rules, and at no time was patient care or his professional autonomy ever compromised. He supports the board's efforts to enforce its statutes and regulations. He already has made numerous corrections and will continue to work with the board on compliance issues. Dr. Peller asked that the allegations against his employees, Dr. O'Brien and Dr. Mai, be dismissed.

The Board, after discussion, tabled the complaints involving Dr. Peller's business and decided to delay holding a hearing for at least 4 months. The Board encouraged other O.D.s and the public to offer comment on this matter in the interim.

Dr. Steve Girisgen asked several questions about Dr. Peller's Administrative Support Agreement with Nationwide Vision (stated on Page 136/Section 3) - Whose employees are collecting the examination fees, and does this further blur the lines of separation of the two business entities? Nationwide Vision uses patient information forms bearing its own name and logo, not Peller P.C., causing confusion. Why is Peller PC listed under Refac Holdings on the organizational chart, as it is a separate business entity?

Ms. Jenkins commented that since the complaint was served, Dr. Peller and Nationwide have resolved many of the problems identified, however Dr. Peller's circumstances are not unique, and many practices have pervasive issues of which the Board may be unaware. Every licensee probably has some non-compliance issue.

In light of the Board's efforts to bring its statutes up to date, Director Jenkins suggested that the amnesty period be put into place during which the staff could reach out to educate licensees, and that the Board might not act on the complaints on today's agenda until May or June 2019. In the meanwhile, staff can reach out with an educational campaign, similar to how PMP compliance issue was handled.

Dr. Young stated that the board encourages efforts to offer access to optometry care to Nevada residents and applauded Dr. Peller's efforts to make improvements/corrections. He added that AB77 would be helpful in clarifying some of the requirements.

Dr. Austin moved to dismiss Complaint Nos. 19-01 and 19-12 and accept Ms. Nutile's offer to assist with education and administrative/operational compliance. Motion was seconded by Dr. Smith. Dr. Austin explained that after the reprieve period, the Board could investigate Dr. Peller to assure his compliance and bring a new complaint if necessary. Approved unanimously. (Investigatory Board Member Drew Johnson excluded from deliberations and vote.)

b. Complaint No. 19-02, Emilie Ritter, O.D., alleged optometrist co-mingling operations with U.S. Vision corporate interests; other misconduct.

Dr. Young swore in of Dr. Ritter, who appeared without counsel. Director Jenkins suggested that the board first consider only Dr. Ritter's exam practices and prescription pad issues, and then the operational issues.

Director Jenkins stated complainant is a dispensing optician who had worked at the optical next to Dr. Ritter's office, and who alleged multiple violations of NRS 636. Director Jenkins conducted an investigation, and engaged in discussions with the US Vision team Regional Manager. The visit confirmed that Dr. Ritter posted her name/office hours, erected office cubicle partitions to block views into the exam room from the store, and corrected her printed Rx pads, which are now in compliance and correct. The US Vision and JC Penney involvement in Dr. Ritter's practice remains questionable. The complaint alleged that Dr. Ritter had shortchanged eye exams, and had some issues with her eye exam practices.

Dr. Ritter stated she has been practicing since 1988 without any disciplinary actions. Dr. Ritter said she took an active role to rectify any issues in her practice. Dr. Ritter believes that Mr. Healy's complaint is malicious. She stressed that patient care was not compromised at any time.

Director Jenkins then called witness Mr. Eric Healy, who was sworn by Pres. Young. Mr. Healy stated that there were multiple complaints, up to 10 per month, that patients were not receiving tonometry readings or refractions, and that Dr. Ritter was only using the autorefractor. He was taking the patients' payments; they were upset and did not want to pay for their exams. In addition, because the pressures were not written on the exam forms, he assumed that the patient's pressures had not been read. He was instructed by the Regional Manager to pay any refunds out of Dr. Ritter's fees. He said that the patients who wished to keep the exam within JC Penney were referred to their other locations.

Mr. Healy also expressed HIPAA concerns for JC Penney and Dr. Ritter. Mr. Healy testified that patient insurance information was left in unlocked drawers that the ones that are locked are with a decorative chain that can be easily broken and removable with a light tug. He stated much of the patient information was just tucked away in Tupperware-style drawers underneath desk; all of it very easy to access. The actual key to Dr. Ritter's office and patient files was kept in this drawer completely open to the public.

Director Jenkins asked Mr. Healy if he brought up these issues with JC Penney. Mr. Healy responded that he had; for two years.

Board Member Drew Johnson asked Mr. Healy if he knew how many patients Dr. Ritter referred to an M.D or ophthalmologist in a given month. Mr. Healy responded that depending on the patient, about 2-10. Dr. Austin asked if he directed any patients to bring their concerns to the Board of Optometry. Mr. Healy responded that he started asking patients about a year ago to bring up their complaints with the board. Director Jenkins confirmed that no complaints had been received.

Dr. Austin commented that it is important to note when the photos had been taken, and that the tonometry machines always look like they do on the photos after the exam and not before.

Dr. Young asked Mr. Healy if he complained to the manager and if so, did manager complain to corporate? Mr. Healy responded that he had multiple communications with the manager about patient complaints, and talked with regional manager nearly every day. He reminded Dr. Ritter to take her time with patients and go over everything. It was the staff's duty to remind Dr. Ritter to slow down and do thorough exams.

Mr. Healy responded that staff has open access to records. Mr. Healy was collecting both exam and dispensing fees. Typically, the patient checks in; the Dr. takes the patient to the exam room, conducts the eye exam, returns with clipboard with Rx, and hands Rx to staff.

Mr. Healy confirmed that he was terminated, stating that they cited insubordination for not getting along with the new manager who was there. Mr. Healy stated that the general manager has fielded many complaints regarding Dr. Ritter.

Dr. Ritter gave details on what she does during exam, including what instruments used, tests performed, and method of charting. She explained that exam files are always in a locked cabinet and the front office has no access; it is not true that they are in front office. She has personal laptop; billing and insurance separate. They take credit cards and she has a management fee arrangement with J.C. Penney. Most of the people use JC Penney card. She has always had a receipt pad. She had no knowledge that an insurance company had to refund any of her patients.

Dr. Ritter does not use EHR and handwrites her exam notes. She has had issues with hands from her prior work experience working in a fast-paced environment, but that she had been told to slow down. Most of the time she does the Goldmann because of patient preference, that most are HPN who are seen for medical reasons, do not wish to have the drops, and will often make a note that they see an M.D.

At the suggestion of Member Johnson, the board agreed to direct staff to investigate patient records to determine whether there is sufficient evidence to back up online reviews regarding incomplete exams. Dr. Ritter agreed to have a review of her records.

Director Jenkins provided

Handout regarding patient/payment agreement with JC Penney for services provided. Pg. 51 "Hand to the Dr. Of Optometry". Pay period calendar, remuneration from gross revenues. Pages 48-50 License Agreement with JC Penney Optical. AKA US Vision. - sublease of space, monthly fee, licensing of use of equipment and what used for, insurance providers/liability policy. One year terms for licensing agreement. Auto renewal unless notice of intent to terminate or modify.

Dr. Ritter made a closing statement. Director Jenkins recommended issue regarding physical separation/posting of signs issue be deferred. Dr. Smith commented the alleged HIPPA violations are difficult to determine as both parties voiced opposite opinions. Dr. Smith and Dr. Austin believe the burden of proof has not been met, that there is no preponderance of evidence regarding allegations.

Dr. Smith moved and Dr. Young seconded 1. and 2. below, all were in favor, none opposed. Motions carried.

1. Regarding violation #1, Motion to Dismiss for lack of evidence, with the option to review patient records.
2. Regarding violation #2, Rx pads; violation can be dismissed. Dr. Young confirmed that this did not compromise patient care and corrections have been made. In light of this, the Board proposed a \$100 fine and not more than \$200 in recouping fees for the hearing (\$300 total).

Board dismissed violations #3-7. Educational campaign will be done to inform licensees during amnesty period to ensure compliance.

c. Complaint No 18-17, Erik Brooker, O.D., alleged optometrist advertising as LASIK surgeon.

Director Jenkins gave summary regarding the complaint alleging that that Dr. Brooker is advertising as a Lasik surgeon and various other advertising violations of NRS 636.

As Dr. Brooker was not present, Ms. Bradley confirmed that per NRS 622A 350, in order for the board to proceed in Dr. Brooker's absence they need to prove proper legal notice before the board can make the determination that all findings have been proven.

Director Jenkins confirmed that Notice of Complaint with Affidavit signed by Laura Adair had been sent to Dr. Brooker via U.S. mail to his mailing address on record on 10/22/19 regarding hearing scheduled for decision on 1/29/19. Those documents were provided in the meeting materials. The Board received no response from Dr. Brooker since that time and the mailing had not been returned.

Dr. Smith moved to proceed to hear the matter, Dr. Young seconded, all in favor, none opposed, motion carried, confirming that Dr. Brooker had been given proper notice.

Director Jenkins provided a photocopy of Advanced Vision Institutes' website, which included statements about Lasik surgery, Dr. Brooker's and other staff profiles, as well as "complete health checks" in their description of services performed.

Ms. Jenkins requested that the board note his absence and to act under NAC 636.570 and 622, regarding the violations alleged in the Notice of Complaint.

She stated that since the date the website was printed to be a part of the complaint, certain corrections were made, however the website now contains different misstatements and misrepresentations. Additionally, as listed in the initial website printout, Dr. Yu is no longer licensed in NV. The other two listed optometrists are licensed, but at least one no longer practices with Dr. Brooker.

Member Johnson asked if it is against regulations if an optometrist advertises but is no longer licensed in NV. Director Jenkins responded that there is no statute on point in that instance; however, the addition O.D. listings make Advanced Vision look like a more comprehensive operation than it is. Some revisions have been made to the website; however, the content on new website shows an ongoing and conscious disregard of the statute and regulations.

Dr. Austin moved to find four violations and to impose a \$2000.00 penalty/fine. Dr. Smith seconded, regarding the following violations by Dr. Brooker:

1. Respondent, through his website during the relevant time, directly or indirectly, claimed to be a doctor who specializes in advanced LASIK surgery treatments, advertised himself as a LASIK surgeon;

2. Respondent's website contains numerous references stating directly and indirectly that Respondent is qualified and licensed to perform and actually performs LASIK surgery at his Las Vegas locations, a task beyond the scope of any licensed Nevada optometrist's practice; and
3. Respondent violated NRS 636.302 (2) and (3), which prohibit circulating or publishing any misleading statement as to optometric services, method of practice or skill or that of another optometrist, as well as advertising in any manner that will tend to deceive, defraud or mislead the public. The statute establishes that such practices constitute unethical or unprofessional conduct; and,
4. Respondent violated NRS 636.295, which outlines the grounds for discipline of an optometrist, including (8) making false or misleading statements with respect to optometric services, and (10) perpetration of unethical or unprofessional conduct in the practice of optometry.

And to impose \$500 for each violation for a total penalty of \$2,000.00 according to NRS 636.420, plus recovery of costs. The Executive Director was instructed to confirm that the website issue has been resolved within 60 days.

d. Complaints 18-05, 18-12, and 18-13 Staff recommendation to close investigation files. Director Jenkins stated that as these are complaints initiated almost a year and a half ago and recommended that they be closed/dismissed, or no longer pursued.

Member Drew Johnson moved that Complaints #18-05, 18-12, and 18-13 be closed. Dr. Smith seconded, all in favor, none opposed; motion carried.

The meeting was interrupted for a short break, reconvened per below.

- 6.* **For Possible Action. Assembly Bill 77.** Presentation and consideration of public input and subcommittee recommendations for amendments to the agency's pre-filed bill.

Dr. Young reconvened the meeting for public comment at 1:50.

Dr. Sefir (Steve) Girisgen, optometrist, had two comments: (1) On materials page 207 on last comment regarding supervision section, he suggested that the assistant tasks be further defined and the board clarify whether the optometrist must be physically on the premises. (2) On page 215 of materials, Section 15-4 and 15-5 how can an optometrist be supervised but not be employed by physician?

Mr. Michael Grover, an optician, stated that the optician's ability to fit and neutralize lenses are necessary tasks that should remain unrestricted, and that removal of this would be a setback.

Ms. Jennifer Benavides, President of the NV Board of Dispensing Opticians, provided her written testimony and read her public comment opposing AB 77's requirement for a valid prescription to for duplicating lenses, and requested that it be submitted into record. She also asked that in Section 10 – the entirety of Section 2 be stricken.

Dr. Spencer Quinton, an optometrist from Henderson, suggested language in Section 2 be simplified "any drug used for the examination" to allow for pharmaceutical agents that may come in different forms. Also he noted on Section 10, exclusions page #3 at bottom of page 207 (132), may be stricken as unnecessary.

Dr. Mark Meiers, an optometrist and previous optician and the current Secretary of the NV Board of Dispensing Opticians, read a statement and concluded that under proposed changes the board is creating a conflict.

Dr. Mark Lee noted incorrect reference in proposed amendments on Page 2, Item 1C, to NRS 636.024, which is confusing.

Jennifer Marie Seymour-Bruzven, an apprentice optician, stated the training and work hours involved in certification demand more than the board might realize. She stated that the best patient care requires a partnership between the optometrist and optical assistant or optician, but would like the ability to do the job without falling under the supervision of an optometrist.

Dr. Smith defined the term neutralizing as reading/determining a prescription from previously made glasses.

Dr. Young recognized no additional public comment regarding AB77.

Director Jenkins requested that Dr. Smith detail and harmonize the legislative changes subcommittee ideas and input received through public meetings/conversations, and provide the board the changes on which it must agree or disagree. She confirmed that the AB77 document already was approved by the board and Office of the Governor, and those changes do not need to be reheard.

Dr. Smith presented the following recommendations for discussion/input:

Section 1 regarding pharmaceutical agents, topical and oral was added at the recommendation of the Academy of Ophthalmology. Schedule II is being removed.

Section 2 – remove S, (pharmaceutical agent) typo in body. (title OK).

Section 3 – 1B – what we are calling an optical mechanic is not an optician. The intention is to allow somebody who does not have an optician license. Director Jenkins asked regarding Paragraph 3-10B where it states "without an Rx by practitioner"; was this added or is this existing language?

Dr. Smith clarified that every provision that does not have a strikethrough is as AB77 was presented. Opticians currently duplicate without valid Rx. AB77 is attempting to require a valid Rx for duplication.

Ms. Bradley commented that it is in the scope of dispensing optician to do this. Because their scope allows this, they are allowed to copy lenses without having the Rx.

Director Jenkins - does not prevent licensed optician from dispensing if valid Rx (this is AB77 add); only under extraordinary or exigent circumstances. Dr. Smith added that the current statute was interpreted to mean there is a risk to public health without a valid Rx.

Dr. Smith responded to J. Benavides, stating that the original intention was to duplicate only in exigent circumstances. In the proposed amendments, the optician's board would receive patient information and periodically report it to the Optometry board. A suggested alternative would require optician to report to Optometry Board, since the doctor has a stake in patient care. Regarding issue with warranty period, most problems are frame-based or scratches. Online retailers are supposed to be requiring a valid Rx.

Dr. Young, in response to opposition by the opticians, reiterated that the board's primary responsibility is to protect the public; AB77 cleans up language in order to match the current practice & modernize. We need to work together to assure patient's eye health & public is protected; to do that, exigent circumstances need to be reported by the optician. Dr. Young noted that half of the people in the nation with glaucoma are undetected, and 1 out of 7 is diabetic. The consumer does not know they need to have their eyes checked - they only think of convenience. We do not want to sacrifice convenience for safety. The eye exam is the least expensive part of the process, and optical facilities are now within most rural communities. Optometrists are typically nearby.

Director Jenkins noted Last line of Paragraph B on second page is typo, wil , also words prescribing within 7 days...should also be gone.

Jennifer Marie Seymour-Bruzven offered examples of extenuating circumstances that are "I want to close the sale" versus taking care of the patient. There are situations where someone who has a high Rx or during weekends, after hours needs glasses made. She has encountered these situations where either they drive off even though they cannot see well or they make a pair of glasses so they can see until an exam can be done. The opticians need to be able to make a judgment call to protect the public. It is in the opticians and the patient's interest to ensure that an exam is done, rather than neutralization. Dr. Smith stated some opticians that do not have these intentions.

Dr. Young stated it is more common now to see an optometrist office open 7 days a week even in smaller communities.

Director Jenkins stated that the term extraordinary or exigent circumstances can be made broad or narrow in the regulatory process; the Board needs hear from the opticians about what sorts of circumstances should be included in exception to the rule. Also, the mobile optometry option should put more optometrists in rural areas, making exams more accessible. Dr. Austin sees a broad definition; if glasses are broken and they need to work, this is an exigent circumstance.

Dr. Young suggested minimal language to state opticians can re-make glasses that were initially prescribed and are still under warranty. Ms. Seymour-Brusven confirmed that in her situation the warranty must be completed within 30 days; though some warranties vary.

Dr. Young stated at least half of the time there is clinical pathology, but the patient is asymptomatic. Often they do not realize they have ulcers or other problem.

Dr. Smith commented that the changes to statute set the general policies, and then regulations later define the specific, defining circumstances. Optometrists and opticians need to work closely together on this.

Dr. Smith continued:

Section – 1E – Rx of contact lenses – leave for now.

Caren noted in Section F – regarding qualifications/fitting. Initial fitting is a statutorily defined term but fitting is not. Language of fitting of contacts is contrary to what opticians are saying and currently certified to do - need to distinguish optometrist and optician's duties. Suggested that fitting could be changed to as defined in NRS 636.

Sections I-L - removing the word surgical, removing section on superficial lesions, pretty broad and optometrists are not trained. Additions/exclusions are proposed by Academy of Ophthalmology. Optometrists probably should not be doing these things anyway. Suggested we add "scrape" for cultures, lesions, etc.

No. 3 - Because opticians can be employed by ophthalmologists in other modalities such as Indian Health or other government agencies, we need to word the section to allow. Medical techs can do some things as well. "Or the affiliated medical facility" may be too broad. Dr. Mark Lee suggested as current statute allows for HMO employment, may want to consider revising language. Dr. Austin suggested "Assistant employed by an optometrist or employed by a facility or an affiliated medical provider and that a corporation is not a medical provider.

Dr. Smith - What if person who works for Lens Crafter and Dr.; they are employed by both but cannot be. Optical is not a medical facility. The language can further specify in the regulations what the intention is.

Dr. Kopolow commented that the provisions do not necessarily state that assistant has to be employed; it just says if employed by optometrist, they may perform these duties. There are two points for clarification. One could state "Any assistant should be employed by a medical provider or affiliated, etc. We do not want a person who is acting on behalf of the optometrist to be employed by just anyone. The second part would be duties to clarify.

Director Jenkins suggested wording could be "An assistant may perform these tasks when A. they are employed by either an optometrist, or B. Employed by an HMO, affiliated medical provider or affiliated medical facility providing assistance to an optometrist". You must be one of the two.

Dr. Girisgen referred to section regarding laser/Optomap is one item, has to be used in a specific context.

Dr. Smith - For Item C under #3, some have argued that there are subjective tests the patient should be able to do with the technician such as Goldmann, etc. Getting rid of noninvasive takes care of that problem. It touches the eye. Dr. Smith believes this is broad enough that we can further define it later.

Dr. Smith stated in further defining supervision it is important to define, but how can we modify the statute. Dr. Smith referred to language from the dental board.

Ms. Bradley commented she has seen other boards where they talk about direct/indirect, struggle with the term on-site. With regard to interns, is it ok by phone, etc.; it needs to be defined, needs to follow the spirit of the NRS.

Director Jenkins regarding definition of personal supervision, it clearly understood that practicing optometry via Skype would not be appropriate supervision of an optician or assistant. Telemedicine, with an assistant present would not be within of our chapter.

Dr. Mark Lee suggested just removing the word personal (under supervision). There are benefits to telemedicine and there are times when it is appropriate. The optometrist must be able to intervene in an emergency; supervision should not be able to be done from the beach. Ms. Bradley stated that the board needs to specify/define supervision under emergency. More common language could be direct versus indirect.

Dr. Mark Lee commented that personal supervision is mostly referring to teaching facilities.

Ms. Bradley stated that in telehealth section, legislature thinks it is important; however services should be of same quality/level. Most common language - direct supervision is generally on the premises, however what if doctor is not on premises. This could be defined as indirect. It helps with complaints and it makes clear that technician is trained. The board must decide if they are required to be in the room or not. If they can be somewhere they can be anywhere.

Dr. Austin suggested wording can be "Direct responsibility and control of a licensed optometrist" and define, instead of "supervision." An optometrist cannot be on the premises at all times, as it would be inefficient.

Dr. Spencer Quinton referred to NRS 630, which defines medical assistant as "person who performs clinical tasks under the supervision ofand does not hold licensed certificate or registration.....maybe this language is too broad but could help define. Director Jenkins stated that board needs to decide if optometrist must be on the premises or not. Dr. Smith suggested we can take out physically present but can further define in regulations. Director Jenkins stated definition of emergency could be defined as within ten minutes driving distance, etc.

Dr. Young suggested that perhaps we do not need them on premises to do prep/collect data and noninvasive procedure, they just cannot perform complete/final exam without optometrist on premises, in person.

Dr. Smith - In #3, under the direct responsibility is still OK. Language will be simplified to state, "The optometrist must perform the final examination of the patient in person."

In Section 3C 636.024, section that defines optometry. Proposed addition 3E, that technician can do vision therapy/rehabilitation under optometrist.

Director Jenkins stated in Section 5, it is important to note fees the board is able to retain versus penalties/fees that need to be passed through state general fund. An automatic penalty would allow the board to impose a late fee and keep the money if a licensee fails to timely comply. Issues regarding willful intent could be addressed by the board.

Dr. Smith – Section 6 – Board needs to make sure mobile optometry clinic is owned and operated by the licensee. The personal supervision language should mirror our assistant language. Renewal needs to be done for mobile clinic as well.

Dr. Young asked if this will clarify concerns from licensees about mobile optometry, van in parking lot issue. If they are serving an underserved population, they are permitted. We will add that renewal for mobile optometry needs to be done as well.

Dr. Smith – Section 8 – changes CE requirements to be in line with other states with 2 year renewal. We are one of the highest in the country. All were in agreement with 25 CE hours.

No. 9 – to add diagnostic pharmaceutical agent.

No 10 – No changes.

No. 11 – Academy of Ophthalmology recommends that we don't grant new licensees glaucoma without certification. There were concerns and they proposed language that grants certification by endorsement. New grads would still need to get NV certification.

From same area, A-B-C – Certain ophthalmologists would like to add "anything other than open angle glaucoma to replace the language in B. This is suggested by Dr. Havens of the AMA and Academy of Ophthalmology. Dr. Austin commented that this would not limit an optometrist. Glaucoma is defined as either closed or open angle. Item C – Director Jenkins suggested we remove word appropriate and put in nonsurgical.

Dr. Smith stated that we still want our older optometrists to be certified. New proposed section regarding glaucoma is well written.

Item 12 – Provision allows board for timely notice regarding retirement/office closure. This allows board to take action regarding on any violations, even after they have closed their practice. Ms. Bradley asked if this is creating a statute of limitations.

She advises if someone was licensed 5 years ago, we can take action, we still have jurisdiction. You can report to the National Practitioner databank and any future board would have access

to discipline info; this discipline will follow them. If they are retired they still have a record of the problem. Director Jenkins stated the board needs to remind licensees just because you give up your license does not mean you are done with records responsibility.

Language should be clear "Regardless of their license status..."

No. 13 – Director Jenkins suggested the addition of paragraph allows us to deal with the enforcement of chapter 89 – HIPPA, other laws that may apply.

Director Jenkins stated violations related to optometrists including corporate formation, HIPPA, disclosure of info or org/professional entity laws is a reminder, putting in statute, even if it is outside of 636, the board still has jurisdiction.

Director Jenkins suggested wording can include "but not limited to, or related to or involving the practice of optometry, etc. Board revise/possibly add if needed.

Chapter 89 – Regarding professional entities law PLLCs and PCs, which requires license to create and limits ownership of entity to licensees. If an optometrist fails to comply this would be a violation of No 14. This is about ownership/control of corporation. separate from fictitious business licensing; We are keeping this.

No. 14, No. 1 with addition. Fictitious business cert. In reference to issue with Dr. Peller, Director Jenkins would like owner of fictitious business license to inform board of location and employees authorized to work there; otherwise she has no idea. If there is a complaint, they will remember the business. When you apply for new location, can location name/status employed/owner be added? Director Jenkins would like to make it a required field.

Dr. Austin asked why knowing practice locations and fill-ins is necessary. Director Jenkins said if a complaint is received, who would know what optometrists provided services.

Ms. Bradley stated if this is required by statute, they must provide this info. However, some doctors may not be aware of business name and may unintentionally give incorrect info. Director Jenkins stated that this simply states that if you are using a fictitious name, you must tell us what it is and where you are using it.

Dr. Smith on No. 15 – Some language was proposed by Dr. Doug Clark, and Dr. Steve Girisgen who had some concerns, that we need to remove regarding employment "or a physician in #4 and #5, otherwise language is good.

Dr. Smith on No. 16 related to Ms. Benavides. Our Rx forms can be different from physicians, but we can propose language to mirror optometrist language if we want.

Director Jenkins stated we can suggest to the legislative committee that all Rx for contact lenses and glasses be consistent throughout statutes, or ophthalmologists can have their separate requirements.

Ms. Bradley asked for clarification on 4-5 by removing the word physician - Does this mean an ophthalmologist cannot supervise an optometrist but they can be in a practice together? Dr. Austin – Dr. Smith – Yes, but optometry practice is separate, medical judgement is their own.

Dr. Smith on No. 16 regarding initial fitting definition - Contact Rx includes specifics that make it a contact lens Rx... EHRs do not allow O.D. to specify. Oftentimes we don't have a checkbox. We suggested to remove that language since it does not make sense for a spectacle Rx.

Director Jenkins asked if AB77 deals with the conversion of a spectacle Rx lens to a contact lens. Dr. Smith – No, we never addressed this in our statute. By law it cannot be converted without valid Rx. In looking at hands-on training areas by NLCE, they still do not have specifics for hard contacts or scleral lenses.

J. Benavides – We typically work in most cases with ophthalmologists who refer to the optometrist to have the contact lenses fitted with the optician. We have a lot of time with our GPs. Jim Morrison has testing reference info he can forward.

Dr. Smith stated the optician's website does not provide the requirement for the number of hours/training on hard contacts or scleral lenses. Ms. Benavides stated that opticians perform 100 hours including specific number of hours with understanding on multiple levels of contact lenses. Opticians do have malpractice insurance. Most of the opticians work in big box operations. Licensed opticians dispense boxes of contacts and doing the production of spectacles. She works in a practice that is a major retail organization and only has 2 doctors per week. We do have specified keratometry training with hard contact lenses, and will provide CE info on specifics of training.

Dr. Young asked how they determine when patient needs an exam if the Rx is expired.

Ms. Benavides responded that opticians have been operating in NV since 1951 and there have been no issues. She does not understand why we need to report to the optometry board when they operate separately.

Dr. Smith asked if anybody opposes getting rid of approved or not approved contact lenses.

Dr. Kopolow commented that he has a certain perspective, having been an optician, with initial fitting. What happens after that? Is that considered a re-fit or a new initial fitting? Does a change in the type of contact lens considered an optician area or an optometry area? Concerned with fitting vs. dispensing. There should be a cooperative effort, but his recommendation would be to define where fitting ends and dispensing begins. Dr. Smith stated the language does not specify if it is the 2nd or 3rd time. Dr. Young asked Ms. Benevides how the opticians define. Ms. Benavides responded only a very small percentage of licensed opticians able to have all the instruments in their practice to determine fit; They base it on the expiration date, typically 2 years. Within that validity and if they have the capability, they will take the spectacle Rx and create a contact lens for the individual. But it is not the general optician; it is someone who specializes in contacts.

Dr. Austin stated that the safeguard was that the optometrist determined if Rx is OK for optician to fit for contacts, or not. There is some disconnect on what an optician thinks is a fitting versus what an optometrist defines it as. Ms. Benavides responded that if patient is approved for contact lenses there should be a checkbox.

Dr. Young commented that there are a lot of gray areas here; some patients we write Rx for glasses because they have medical reason not to wear contact lenses. We see many contact lens complications all the time. Statutes need to specify an optometrist needs to write a separate contact lens Rx. Dr. Austin commented some opticians will convert without a directive that they cannot.

Dr. Smith suggested we word the statute as eyeglass Rx shall not be construed as approved for contact lenses unless specifically stated, so we can determine on a case-by-case basis. The EHR cannot be modified.

Dr. Mark Lee stated his instructor at Pacific was an optician. Fitting really has to do with how a lens fits on the eye, measuring the correct curve, etc. The Rx is an ongoing coordinated effort between optometrist and optician. Dr. Smith stated wording will be changed to clarify/eliminate the whole check box thing.

Dr. Austin stated when an optometrist writes a glasses Rx it specifies for glasses only, or OK for contact lenses. Ms. Benavides would like to work with board on this language. Dr. Smith would like to have further discussion with opticians board, however as this our last meeting before the legislative session, we need to make a motion on how to move forward. Opticians - NRS 637.245 has several requirements for contact lens fitting. Regarding exigent circumstances, if there is a complaint by the public it would go to the proper board. Is there a reason for a licensed optician to report to optometrist? Dr. Smith - if patients Rx has been duplicated for many years there needs to be documentation of that. Ms. Benavides suggested working on a compromise. Optician's board should regulate opticians.

Dr. Young stated optometry laws still have loophole for them to duplicate lenses. He learned early in his career that close to 50% of eyeglass lenses were being duplicated. Patients could not see because of health issues but they were still being made. J. Benavides commented that LensCrafters does not allow duplicating. Dr. Austin suggested that if the optometrist has concerns they can contact optician's board. Ms. Benavides stated law needs to make compromise regarding reproducing but they do not want to report to optometry board; Exigent circumstances happen often. Dr. Young - Dr. Austin - We can take out requirement that Opticians Board reports to Optometry Board. We can work on record keeping requirements, but still cannot accept allowing opticians to duplicate without valid Rx.

Dr. Smith summarized the main changes that were agreed to be made and moved to accept agreed upon amendments to AB77, and Dr. Austin seconded the motion. All voted in favor, none opposed. Motion carried.

- 7.* **For Possible Action. Annual Review of Executive Director.** Consideration of employee performance, and possible adjustment to salary or other compensation of Executive Director Caren C. Jenkins. Proper Notice to employee provided.

Dr. Young thanked Director Jenkins for elevating the board's level of professionalism as well as the ability to hold licensees to follow the statutes, and complimented her great job of getting the legislative affairs effort going. Dr. Smith added that the statute revision proposals would have never happened without Director Jenkins.

The board discussed what the bonus/salary increases have been in the past and what the most appropriate options are regarding the Executive Director position. In light of the budgeted negative cash flow in the current fiscal year, the Board deferred adjustments to staff salaries until the new fiscal year budgeting when the Board can be better informed of its financial position.

Dr. Smith moved and Dr. Austin seconded a motion that the board adopt and apply whatever COLA adjustment for state employees generally is approved for July 2019 by the Governor and Legislature to Executive Director and Licensing Specialist positions, in addition to any other change in benefits approved for other state employees. Salary adjustments will be addressed in next year's budgeting considerations.

- 8.* **For Possible Action. Executive Director's Report.** This agenda item moved to next meeting.
9. Announcements and requests for future Board consideration (No action to be taken). ***NEXT BOARD MEETING scheduled for March 26, 2019 at noon, by telephone.*** Agenda items for future meetings: consider lifting Regulatory Reprieve after public education after May; perform record review with Dr. Ritter and report back.
10. Public Comment. Dr. Young confirmed that there was no further comment from either the North or South.
- 11.* **Adjournment.** Dr. Smith moved to adjourn the meeting, seconded by Dr. Austin. All voted in favor, motion carries. President Young adjourned the meeting at 4:25 p.m.

These minutes were approved by majority vote at the Nevada State Board of Optometry meeting on May 21, 2019.

Dated _____

By Caren C. Jenkins, Executive Director

NEVADA STATE BOARD OF OPTOMETRY



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MARIAH SMITH, O.D.
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MINUTES

THE NEVADA STATE BOARD OF OPTOMETRY TELEPHONE MEETING Thursday, February 7, 2019 at 12:00 Noon

1. Welcome, Introductions and Public Comment.

No public comment was offered.

2. Call to Order, Roll Call.

President Young called the meeting to order at 12:04 p.m. via teleconference. All members were present and a quorum was established. Board member Drew Johnson joined the meeting late at 12:20 p.m.

- 3.* For Possible Action. Consideration of granting a regulatory reprieve from allegations of or existing violations of NRS and NAC chapters 636 related to organizational and operational compliance, but not licensure or clinical or administrative compliance, through April 30, 2019, and efforts to educate Nevada licensees regarding the same.

Dr. Austin moved to grant the requested reprieve as discussed at the last Board meeting, seconded by Dr. Smith. Approved unanimously.

Executive Director Jenkins plans to meet with Maria Nutile, Esq. to develop a checklist and list of resources to be used in an educational campaign regarding corporate compliance issues.

- 4.* For Possible Action. Executive Director's Report.
 - a. Agency Financial Report, 7/1/18 through 12/31/18, potential adjustments.
 - b. 2017-18 Audit Status.
 - c. Other reports/information.

a. Director Jenkins presented the financial report at 6 months and reported that more than 80% of license renewals have not yet been received.

b. The required 2017-18 audit has not yet been completed., but she has been prompting the auditors to complete it well before the end of this legislative session.

c. Further investigation of Dr. Ritter's patient files was performed with the assistance of a private firm in Las Vegas who obtained random files. On behalf of the Board, Dr. Austin reviewed several dozen patient files to determine if complete exams were done. Dr. Austin concluded that his review did not identify sufficient grounds to support the allegations and recommended that the Board dismiss the Complaint. President Young suggested that staff need not to place this matter on the agenda for the March board meeting.

Director Jenkins asked the board for substantive input on the proposed education campaign, statutes, etc. Member Johnson agreed to assist with developing information for the licensees, and Dr. Young offered to assist if needed.

Director Jenkins stated that she has been negotiating with counsel for Dr. Amel Youssef, and that there will not likely be a hearing on the next agenda. Instead, a stipulated settlement of the matter likely will be considered at the next meeting

5. Announcements and requests for future Board consideration (No action to be taken).
NEXT BOARD MEETING scheduled for March 26, 2019 at noon, by telephone.

- 6.* Public Comment. There was no public comment.

- 7.* **For Possible Action. Adjournment.** The meeting was adjourned at 12:21 p.m.

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MINUTES OF PUBLIC MEETING

THE NEVADA STATE BOARD OF OPTOMETRY TELEPHONIC MEETING Tuesday, March 5, 2019 at 5:30 pm.

* * * * *

1. Welcome, Introductions and Public Comment.

President Chen Young, O.D. welcomed participants on the call and asked for public comment. There was no public comment offered.

2. Call to Order, Roll Call.

The meeting came to order at 5:32 pm, with all Board Members present. Also attending were staff Caren Jenkins, Executive Director and Sarah Bradley, Esq., Board Counsel. Public in attendance included Mike Hillerby, Jeannette Belz and Terri Ogden.

- 3.* **For Possible Action.** Consideration of amendments to Assembly Bill 77 for proposal to the Assembly Committee on Commerce & Labor.

All members acknowledged that they had had an opportunity to carefully review AB77 and the amendments proposed by the Legislative Changes Subcommittee and Dr. Smith. After a brief overview, noting that the proposed changes came in response to questions raised in response to the introduction of the measure, members asked questions. Most were that the format made provisions difficult to locate. After discussion, Dr. Smith moved and Dr. Austin seconded a motion for the Board to adopt the recommendations presented for additional amendments to AB 77, and to submit the new material to the legislature for further amendment to AB77. Unanimous approval. Motion passed.

- 4.* **For Possible Action.** Consideration of support or other action on measures related to optometry in the 2019 Legislature

President Young proposed that the Board engage assistance in lobbying on behalf of AB77 and other optometry board related legislative measures. Mr. Johnson suggested the Board approve giving the Executive Director authority to select and engage a lobbyist and to expend up to \$15,000 for such services. Dr. Austin moved and Dr. Smith seconded the motion to authorize the Executive Director to engage a lobbying assistance and expend up to \$15,000 therefor. Motion passed unanimously.

SB 187 regarding opioid prescribing proposes to exempt optometrists and dentists from the requirements of a physical exam, review of medical records and other considerations for which they may not be qualified. The measure would exempt prescribers who offer less than a 7 day supply. The Board agreed that the E.D. already had authority to testify of the effect on this measure on the Board.

AB 239 came to the Board's attention via Mike Hillerby on behalf of the Nevada Optometric Association. The bill's sponsor, Mike Sprinkle applies the SB 187 exemptions to opioid prescribers of 30 days or fewer.

5. Announcements and requests for future Board consideration (No action to be taken).
NEXT BOARD MEETING scheduled for March 26, 2019 at noon, by telephone.

- 6.* Public Comment.

No public comment was offered.

- 7.* **For Possible Action. Adjournment.**

President Young called for adjournment at 6:23 pm. Moved by Dr. Smith and seconded by Mr. Johnson. Unanimous approval. Motion passed.

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MINUTES

THE NEVADA STATE BOARD OF OPTOMETRY TELEPHONIC MEETING

Tuesday, March 26, 2019, beginning at 12 Noon

AGENDA

1. Welcome and Call to Order, Roll Call.

President Young called the meeting to order at 12:05 p.m. via teleconference from Las Vegas, Nevada. All members were present, along with staff: Caren C. Jenkins, Executive Director; Deputy Attorney General Sarah Bradley; Board Counsel; Laura Adair, Licensing Specialist; and guests: Timothy Elson, Esq. representing Dr. Amel Youssef, and Jennifer Benavides, President of the NV Board of Dispensing Opticians.

2. Public Comment. No public comment was offered.

3. * For Possible Action. Consideration and approval of the minutes of February 7, 2019 and March 5, 2019 meetings were not yet available.

4. * For Possible Action. Consideration of a proposed **Stipulated Settlement of Consolidated Complaints Nos. 19-11 & 19-05** regarding the conduct of **AMEL YOUSSEF, O.D., Lic. 449.** Timothy Elson, Esq. for Respondent, and Executive Director Caren C. Jenkins propose a jointly prepared resolution to the Consolidated Complaints.

Ms. Jenkins provided an overview of the document included in the meeting materials. Mr. Elson stated that VSP's allegations may have been overreaching in certain aspects, but there were areas for improvement and that is why he proposed and negotiated the stipulated settlement with Ms. Jenkins.

Dr. Young asked Mr. Elson to describe how the third-party billing will work during the two years of probation. He responded that all patient billing will be handled by the outside third parties, including cash, insurance, credit card and vendors.

Dr. Young advised Dr. Youssef that she still has responsibility and oversight over her practice, and that she is still responsible for these third party companies for her billing.

Roll Call Motion:

Dr. Austin moved to accept the stipulated settlement agreement, seconded by Dr. Young. Approved unanimously, motion carries.

Mr. Elson indicated that he had no further comments, and will follow up with Ms. Jenkins once the stipulated settlement has been executed. Ms. Jenkins confirmed that the effective date will be the date of the last signature. Mr. Elson will work on getting a signature from Dr. Youssef.

5. **Board Update**

a. **AB77 Update:**

presented by Vice-President and Legislative Subcommittee Chairperson Mariah Smith, O.D. and Board Lobbyist Lucas Foletta, Esq.

Dr. Smith stated that the Board's 2nd hearing at the Assembly Committee on Commerce and Labor is scheduled for 3/27/19. There is no new information to present, but there are a few items that need to be addressed regarding disagreements. Mr. Foletta was not present on the conference call.

Dr. Smith stated that the first issue to be addressed is the opticians removing the requirement for a valid prescription before duplication of lenses. Ms. Jenkins stated that several meetings between the opticians' and lobbyist and the board's lobbyist have taken place. The dispensing opticians had prepared a proposal, which was later determined to be pre-empted by existing language in their own chapter, regarding optometrists' assistants to dispense glasses. NRS 637 explicitly states that optometrists and their employees are not subject to the chapter, so this proposed amendment was not pursued. It is not certain what will be discussed. The proposed amendments that Dr. Smith will present on 3/27 include compromises that should help opticians obtain or verify a valid prescription before duplicating.

Dr. Smith stated the only other point for possible discussion is having a maximum dollar amount for fees. One committee member suggested that we just set the fees in statute without placing a maximum limit. If not resolved today this issue may be brought up at the Assembly Committee meeting on 3/27/19.

b. **Optometry and Board-related measures Update:**

presented by Executive Director Caren C. Jenkins and Board Counsel Sarah Bradley, Esq.

Ms. Jenkins provided a list of current bills that may impact the practice of optometry and/or the board; all but two have been introduced. She is tracking this legislation and provided a brief explanation. She encourages the board to review the bill text. Ms. Jenkins may be asked to attend the hearings to offer information about the bill's effect on the board. Of note, there is a BDR that requires agencies to reach out to immigrants to assist them to gain licensure. Currently the board's educational licensure requirements require graduation from one of the ACOA approved/accredited optometry schools. If this measure passes, some adjustments will need to be made to the Optometry regulations. Ms. Jenkins will keep the board posted on the status.

Also of concern is one bill which allows us to recover the costs of accepting credit

cards, and another bill which prevents the board from recovering any credit card processing fees. Just last year, \$7,700 was expended for credit card processing and we were able to recover that amount. Our 3.5% convenience fee is based on the 3.34% fee that we pay, plus a monthly fee of \$25-\$40 for online systems to accept those transactions. Other than the controlled substance issue, not many other bills affect the board operations or optometrists.

Ms. Bradley commented that she reviewed the bill regarding credit card recovery costs and it is expected to be amended to allow us to recover the fee. The intent is to not make money. She also noted that she will send other measures to Ms. Jenkins; one regarding reciprocity requirements, and another related to criminal convictions and licensure eligibility.

Dr. Young asked Ms. Bradley if the bill pertaining to reciprocity applies to Nevada practitioners' access to licensure in other states.

Ms. Bradley stated that the measure applies to practitioners wanting to come to NV, and that most licensing boards already have endorsement statutes in place. The intent is that all licensing boards will offer licenses by endorsement to address the lack of providers in NV.

Dr. Young commented that AB77 would encourage more optometric providers to come to NV, because currently some must take a step back in therapeutics and glaucoma practice.

c. **Executive Director's Report**

- Regulatory Reprieve and outreach efforts;
- Licensing & renewals,
- ARBO appointments
- Guidance regarding Clinical licensure

Ms. Jenkins reminded the board that it has implemented a regulatory reprieve through May 1 with regard to the corporate structure and formation regulations. She is meeting with Ms. Maria Nutile to finalize the details and they are cooperating with NOA to offer a small group live presentation, one hour each, on 4/11 in LV, to be recorded and made available on the NOA website. The webinar may be viewed by anyone and optometrists can pay a small fee for the practice management CE credit. The recording will be available on the NOA website probably until July 1. There may be more specific information to share once the legislative session is over, so the plan is to then do an update after the changes become law.

The license renewal season is over! As of this date, including the last three months of activity, we currently have 50 actively inactive licensees, 501 practicing active licensees, for a total of 551 licensed optometrists; approximately 10% more than a year or two ago. We have suspended 18 licenses for non-renewal—of them 7 individuals are intentionally expiring, one of whom is deceased. We had a total loss of 26 licensees. In the last quarter, we have issued 8 new licenses.

Our current licensed population is 551 which is a very encouraging number. Of the 18 that are currently suspended, several of them have been gathering their CEs, etc. to meet the requirements. Our current statute allows them to do that until July 30th without additional penalty. Ms. Jenkins estimates

that the board can expect to recover approximately one-third of these licensees, and that about two-thirds will lapse into expired status as of December 31, 2019.

Ms. Jenkins also stated that she is pleased to have the entirety of our licensure fees deposited into our bank account. This will be helpful when we start our budgeting process.

Clinical licensing requirements – NRS 636.227 imposes licensing of extended clinical facilities, which does not apply to clinicians practicing with existing licensees. Ms. Jenkins asked the Board whether the language matches the Boards' intent, and received an affirmative response.

NRS 636.350 – Fictitious Name Statute – The current statute is being improperly applied; should it be required for every optometrist or only business owners? Ms. Jenkins has an April meeting with Ms. Nutile, and then the board will need to address the matter in the regulations. Fill-Ins may not know the fictitious name of the absent doctor. The name of the practice/owners needs to be added to the license renewal form.

Dr. Smith made a motion to add an amendment to AB77 that not every optometrist needs a fictitious name certificate, only business owners, seconded by Dr. Young. All in favor, approved unanimously.

Regarding the ARBO membership, Ms. Jenkins is on three committees: (1) Contemporary Issues Committee, (2) Judicial Consideration Committee which reviews constitutional/court decisions and resolutions, and (3) Member Board Executives Committee.

Dr. Smith has been selected to attend the ARBO conference in St. Louis in June, but has not yet been notified regarding whether she will be granted a scholarship to help with fees and travel costs.

The FARB membership covers all Board and staff members. Ms. Bradley attended for resources on case law, etc. and recommends the Board join FARB.

The next board meeting is scheduled for May 21, 2019 at Noon, by telephone.

The board meeting on June 25th is scheduled for an in-person meeting in Reno; this is the last meeting to discuss the proposed biennial budget.

6. **Announcements and Board Member Requests for future Board consideration.** None.

7. **Public Comment.**

Ms. Benavides reminded the board of the conflicts with proposed language in AB77 Section 10, regarding opticians being required to verify a valid prescription before duplicating eyeglasses.

8.* **Adjournment.** President Young adjourned the meeting at 12:45 p.m., on unanimous vote.

Motion by Dr. Austin, seconded by Dr. Smith.

Approved by Board Vote on

Caren C. Jenkins, Executive Director

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MINUTES **THE NEVADA STATE BOARD OF OPTOMETRY** **TELEPHONIC MEETING** **Tuesday, March 26, 2019, beginning at 12 Noon** **AGENDA**

1. **Welcome and Call to Order, Roll Call.**

President Young called the meeting to order at 12:05 p.m. via teleconference from Las Vegas, Nevada. All members were present, along with staff: Caren C. Jenkins, Executive Director; Deputy Attorney General Sarah Bradley; Board Counsel; Laura Adair, Licensing Specialist; and guests: Timothy Elson, Esq. representing Dr. Amel Youssef, and Jennifer Benavides, President of the NV Board of Dispensing Opticians.

2. **Public Comment.** No public comment was offered.

3. * **For Possible Action.** Consideration and approval of the minutes of February 7, 2019 and March 5, 2019 meetings was tabled as the minutes were not yet available.

4. * **For Possible Action.** Consideration of a proposed **Stipulated Settlement of Consolidated Complaints Nos. 19-11 & 19-05** regarding the conduct of **AMEL YOUSSEF, O.D., Lic. 449**. Timothy Elson, Esq. for Respondent, and Executive Director Caren C. Jenkins propose a jointly prepared resolution to the Consolidated Complaints.

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Dr. Young asked Mr. Elson to describe how the third-party billing will work during the two years of probation. He responded that all patient billing will be handled by the outside third parties, including cash, insurance, credit card and vendors.

Dr. Young advised Dr. Youssef that she still has responsibility and oversight over her practice, and that she is still responsible for these third party companies for her billing.

Dr. Austin moved to accept the stipulated settlement agreement, seconded by Dr. Young. Approved unanimously, motion carries.

5. **Board Update**

a. **AB77 Update:** presented by Vice-President and Legislative Subcommittee Chairperson Mariah Smith, O.D

Dr. Smith stated that the Board's 2nd hearing at the Assembly Committee on Commerce and Labor is scheduled for 3/27/19. There is no new information to present, but there are a few items that need to be addressed regarding disagreements.

Dr. Smith stated that the first issue to be addressed is the opticians removing the requirement for a valid prescription before duplication of lenses. Ms. Jenkins stated that several meetings between the opticians' and lobbyist and the board's lobbyist have taken place. The dispensing opticians had prepared a proposal, which was later determined to be pre-empted by existing language in their own chapter, regarding optometrists' assistants to dispense glasses. NRS 637 explicitly states that optometrists and their employees are not subject to the chapter, so this proposed amendment was not pursued. It is not certain what will be discussed. The amendments that Dr. Smith will present on 3/27 include compromises that should help opticians obtain or verify a valid prescription before duplicating.

Dr. Smith stated the only other point for possible discussion is having a maximum dollar amount for fees. One committee member suggested that we just set the fees in statute without placing a maximum limit. If not resolved today this issue may be brought up at the meeting on 3/27/19.

b. **Optometry and Board-related measures Update:**

presented by Executive Director Caren C. Jenkins and Board Counsel Sarah Bradley, Esq.

Ms. Jenkins provided a list of current bills that may impact the practice of optometry and/or the board; all but two have been introduced. She is tracking this legislation and provided a brief explanation. She encourages the board to review the bill text. Ms. Jenkins may be asked to attend the hearings to offer information about the bill's effect on the board. Of note, there is a BDR that requires agencies to reach out to immigrants to assist them to gain licensure. Currently the board's educational licensure requirements require graduation from one of the ACOA approved/accredited optometry schools. If this measure passes, some adjustments will need to be made to the Optometry regulations. Ms. Jenkins will keep the board posted on the status.

Also of concern is one bill which allows us to recover the costs of accepting credit cards, and another bill which prevents the board from recovering any credit card processing fees. Just last year, \$7,700 was expended for credit card processing and we were able to recover that amount. Our 3.5% convenience fee is based on the 3.34% fee that we pay, plus a monthly fee of \$25-\$40 for online systems to accept those transactions. Other than the controlled substance issue, not many other bills affect the board operations or optometrists.

Ms. Bradley commented that she reviewed the bill regarding credit card recovery costs and it is expected to be amended to allow us to recover the fee. The intent is to not

make money. She also noted that she will send other measures to Ms. Jenkins; one regarding reciprocity requirements, and another related to criminal convictions and licensure eligibility.

Dr. Young asked Ms. Bradley if the bill pertaining to reciprocity applies to Nevada practitioners' access to licensure in other states. Ms. Bradley stated that the measure applies to practitioners wanting to come to NV, and that most licensing boards already have endorsement statutes in place. The intent is that all licensing boards will offer licenses by endorsement to address the lack of providers in NV.

Dr. Young commented that AB77 would encourage more optometric providers to come to NV, because currently some must take a step back in therapeutics and glaucoma practice.

c. **Executive Director's Report**

- Regulatory Reprieve and outreach efforts;
- Licensing & renewals,
- ARBO appointments
- Guidance regarding Clinical licensure

Ms. Jenkins reminded the board that it has implemented a regulatory reprieve through May 1 with regard to the corporate structure and formation regulations. She is meeting with Ms. Maria Nutile to finalize the details and they are cooperating with NOA. There may be more specific information to share once the legislative session is over, so the plan is to then do an update after the changes become law.

The license renewal season is over! As of this date, including the last three months of activity, we currently have 50 actively inactive licensees, 501 practicing active licensees, for a total of 551 licensed optometrists; approximately 10% more than a year or two ago. We have suspended 18 licenses for non-renewal—of them 7 individuals are intentionally expiring, one of whom is deceased. We had a total loss of 26 licensees. In the last quarter, we have issued 8 new licenses.

Our current licensed population is 551 which is a very encouraging number. Of the 18 that are currently suspended, several of them have been gathering their CEs, etc. to meet the requirements. Our current statute allows them to do that until July 30th without additional penalty. Ms. Jenkins estimates that the board can expect to recover approximately one-third of these licensees, and that about two-thirds will lapse into expired status as of December 31, 2019.

Ms. Jenkins also stated that she is pleased to have the entirety of our licensure fees deposited into our bank account. This will be helpful when we start our budgeting process.

Clinical licensing requirements – NRS 636.227 imposes licensing of extended clinical facilities, which does not apply to clinicians practicing with existing licensees. Ms. Jenkins asked the Board whether the language matches the Boards' intent, and received an affirmative response.

NRS 636.350 – Fictitious Name Statute – The current statute is being improperly applied; should it be required for every optometrist or only business owners? Ms. Jenkins has an April meeting with Ms. Nutile, and then the board will need to address the matter in the regulations. Fill-Ins may not know the

fictitious name of the absent doctor. The name of the practice/owners needs to be added to the license renewal form.

Dr. Smith made a motion to add an amendment to AB77 that not every optometrist needs a fictitious name certificate, only business owners, seconded by Dr. Young. All in favor, approved unanimously.

Regarding the ARBO membership, Ms. Jenkins is on three committees: (1) Contemporary Issues Committee, (2) Judicial Consideration Committee which reviews constitutional/court decisions and ARBO resolutions, and (3) Member Board Executives Committee. Dr. Smith has been selected to attend the ARBO conference in St. Louis in June, but has not yet been notified regarding whether she will be granted a scholarship to help with fees and travel costs.

The FARB membership covers all Board and staff members. Ms. Bradley attended for resources on case law, etc. and recommends the Board join FARB.

6. **Announcements and Board Member Requests for future Board consideration.**

The next board meeting is scheduled for May 21, 2019 at Noon, by telephone.

The board meeting on June 25th is scheduled for an in-person meeting in Reno; this is the last meeting to discuss the proposed biennial budget.

None.

7. **Public Comment.**

Ms. Benavides reminded the board of the conflicts with proposed language in AB77 Section 10, regarding opticians being required to verify a valid prescription before duplicating eyeglasses.

8.* **Adjournment.** President Young adjourned the meeting at 12:45 p.m., on unanimous vote.

Motion by Dr. Austin, seconded by Dr. Smith.

Approved by Board Vote on

Caren C. Jenkins, Executive Director

MEETING MATERIALS FOR AGENDA ITEM 4

Discussion of optometry-related measures in the 2019 Nevada Legislative Session, and planning for implementation of the same and preparation for the review and modification of NAC Chapter 636.

Presented by Lucas Foletta, Esq., Board Lobbyist, Mariah Smith, O.D., Board Vice-President and Legislative Liaison, and Caren C. Jenkins, Executive Director.

May 21, 2019

	A	B	C	D	E
1	OPTOMETRY-RELATED BILL STATUS - AS OF 5/16/19				
2					
3	BILL NO.	SUMMARY	STATUS	HOW OPTOMETRY-RELATED	
4					
5	AB77	Significant revision of Chapter 636	AC&L	Optometry Board's bill	
6	SB134	Authorizes RNs to make certain determinations in lieu of provider	A. HHS 5/13/19 - Do Pass	For Driver's license-Dept. may accept report from OPT in lieu of eye test if performed within 90 days of of license renewal app.	
7	AB147	Authorizes PA or RN to perform certain services	5/14/19 - Approved by Gov; effective 7/1/19.	OPT included in definition of provider Re: student health	
8	SB170	Requirements governing injection of botox/dermal fillers	4/29/19 Heard in A. Comm & Labor	OPT not mentioned; only provider	
9	SB234	Requires Insurance Comm to provide notice Re: provider networks	5/10/19 A. HHS Do Pass	OPT not mentioned; only provider	
10	AB236	Revises preprosecution diversion programs	5/14/19 A. Judiciary Amend/Do Pass	Controlled substance must be from provider (OPT..)	
11	AB310	Requires electronic prescriptions, authorizes Rx to be given indirectly	5/15/19 S Commerce & Labor Amend/Do Pass	OPT must be mentally/physically competent, no felony or misdemeanor convictions.	
12	SB187	Provisions governing CS prescriptions	5/6/19 A. Commerce & Labor Heard	Authorizes OPT to forego medical records review if Rx is for less than 14 days; if CS for less than 7 days provisions not required.	
13	AB275	Prohibits regulatory body from denying applicant based on immigration or citizenship status.	5/15/19 S Commerce & Labor Amend/Do Pass	NRS 636.155 Amended to remove citizen of US (keeps all other requirements).	
14	AB239	Revises complaint investigations concerning CS violations.	5/10/19 S Commerce & Labor - Amend/Do Pass	Pharm Bd need to inform/make available on Internet bulletin/explanation of CS requirements; NRS 636.339	

Amendment No. 641

Assembly Amendment to Assembly Bill No. 77

(BDR 54-366)

Proposed by: Assembly Committee on Commerce and Labor**Amendment Box:** Replaces Amendment No. 489.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 77 (§§ 4, 20).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	☐	Lost	☐	_____		Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____		Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____		Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of *green bold underlining* is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) *orange double underlining* is deleted language in the original bill proposed to be retained in this amendment.

JRS/BJE



Date: 4/23/2019

A.B. No. 77—Makes various changes to provisions governing the practice of optometry. (BDR 54-366)



ASSEMBLY BILL NO. 77—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE NEVADA STATE BOARD OF OPTOMETRY)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing the practice of optometry. (BDR 54-366)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~{omitted material}~~ is material to be omitted.

AN ACT relating to optometry; authorizing an assistant to perform activities relating to optometry under certain circumstances; providing for the certification of a mobile optometry clinic; providing for certification by endorsement to treat a person diagnosed with glaucoma; revising the acts which constitute the practice of optometry; revising certain exemptions relating to the practice of optometry; revising provisions governing the Nevada State Board of Optometry and the Executive Director of the Board; ~~{authorizing the Executive Director to invest certain money in treasury bills or notes of the United States;}~~ revising provisions governing the preparation of a roster of licensees; authorizing the Board to adopt certain policies; requiring the Board to establish, review and revise a schedule of fees; ~~{repealing}~~ revising provisions which authorize the Board to impose certain penalties; revising provisions governing the qualification and examination of an applicant for a license to practice optometry; expanding the period required for the renewal of a license to practice optometry; revising provisions governing the restoration of a license to practice optometry; revising the requirements for certification to prescribe pharmaceutical agents; revising provisions governing the issuance of a certificate to treat glaucoma; ~~{repealing}~~ revising certain provisions governing disciplinary actions against a licensee; revising provisions relating to the submission of a complaint against a licensee; revising provisions governing the location at which a licensee practices optometry; prohibiting an optometrist from entering into certain leases with a person who is not licensed as an optometrist; prohibiting a person from directly or indirectly supervising an optometrist under certain circumstances; revising provisions governing service of process and the transmission of certain notices by the Board;

authorizing any licensed optometrist to administer topical diagnostic ophthalmic agents; revising provisions governing the issuance of an injunction or the imposition of a criminal penalty or administrative fine for certain violations; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law extensively regulates the practice of optometry in this State, including, without limitation, provisions governing the: (1) creation of the Nevada State Board of Optometry; (2) issuance and renewal of a license to practice optometry; (3) issuance and renewal of a license for an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders; (4) certification of an optometrist to administer and prescribe therapeutic pharmaceutical agents; (5) issuance of a certificate to treat persons diagnosed with glaucoma; and (6) payment of fees for such licenses and certificates. (Chapter 636 of NRS) This bill makes numerous changes to the provisions of existing law governing the practice of optometry.

Sections 2, 35-39, 60 ~~and 61~~ -62 of this bill revise provisions governing the administering and prescribing of a pharmaceutical agent by an optometrist. **Section 3** of this bill authorizes an assistant in any setting where optometry is practiced to fit ophthalmic lenses or spectacle lenses and perform certain other activities if the assistant acts under the direct ~~responsibility and personal~~ supervision of a licensed optometrist. **Section 4** of this bill sets forth the requirements for the issuance of a certificate to own or operate a mobile optometry clinic. **Section 4.5 of this bill provides for the issuance of a certificate by endorsement to treat a person diagnosed with glaucoma.** **Sections 6-9** of this bill revise the definitions of "advertise," "contact lens," "diagnostic pharmaceutical agents" and "prescription." **Section 10** of this bill expands the acts which constitute the practice of optometry to include, without limitation, ~~surgically~~ removing eyelashes ~~and surgically removing any superficial lesion of the eye~~ **with forceps** and ~~surgically~~ closing the lacrimal punctum of an eye. **Section 10.5 of this bill revises the applicability of chapter 636 of NRS governing the practice of optometry.** **Section 11** of this bill revises the circumstances under which a person is exempt from the provisions of chapter 636 of NRS regulating the practice of optometry.

Section 12 of this bill requires the Board to take certain actions at its first meeting held during each fiscal year. **Section 13** of this bill repeals provisions which require the Executive Director of the Board to file a performance bond with the Governor. **Section 14** of this bill clarifies that the Board may employ consultants. **Section 15** of this bill amends certain provisions governing the filing of a complaint to initiate disciplinary action. ~~**Section 16 of this bill authorizes the Executive Director to invest certain money in treasury bills or notes of the United States.**~~ **Section 17** of this bill requires the Board to periodically prepare and make available a roster of all licensees. **Section 18** of this bill authorizes the Board to adopt policies necessary to carry out the provisions of chapter 636 of NRS governing the practice of optometry. **Section 19** of this bill revises certain provisions governing the accreditation of schools which teach optometry. **Section 20** of this bill requires the Board to establish, review and revise a schedule of fees at least once every 2 years. **Section 20 also sets forth the maximum amount of fees that the Board may include in the schedule.**

Section 21 of this bill ~~repeals~~ **revises** provisions which authorize the Board to impose certain penalties against a person who engages in the practice of optometry in this State without a license to practice optometry or a renewal card for the license. **Sections 22-27** of this bill revise the requirements for the issuance of a license to practice optometry, including, without limitation, the examinations, scores and payment of fees required for the license. **Section 28** of this bill requires the payment of a fee for the renewal of a license for an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders and revises the period during which the license is effective.

Sections 29-33 of this bill provide for the renewal of and the payment of fees for the renewal of a license to practice optometry on certain dates occurring during even-numbered years. **Section 34** of this bill: (1) authorizes the restoration of a suspended license within 90 days after the license is suspended upon the completion of certain acts by the licensee; and (2) provides for the expiration of the license if those acts are not completed within that period.

51 Section 39 of this bill revises provisions relating to the prescription of a controlled
52 substance by an optometrist.

53 Section 40 of this bill revises the circumstances under which an optometrist is required to
54 obtain a certificate to treat persons diagnosed with glaucoma and to refer those persons to an
55 ophthalmologist for treatment. Section 41 of this bill revises the requirements which the
56 Board must include in its regulations relating to the issuance of a certificate to treat persons
57 diagnosed with glaucoma. Section 41.5 of this bill clarifies that a person licensed to
58 practice optometry in this State is subject to the jurisdiction of the Board regardless of
59 whether the license is expired, suspended or revoked. Section 41.5 also revises the
60 manner in which the Board may discipline a licensee.

61 Sections 42-45 of this bill revise the acts which constitute sufficient cause for disciplinary
62 action or which constitute unethical or unprofessional conduct. Sections 46 ~~[-48]~~ and 47 of
63 this bill revise the requirements for making and hearing a complaint against a licensee.
64 Sections 48.3 and 48.6 of this bill revise: (1) the manner in which a disciplinary hearing
65 must be conducted; and (2) the actions that the Board may take upon finding by a
66 preponderance of the evidence that a person has engaged in one or more grounds for
67 disciplinary action. Section 48.9 of this bill repeals certain provisions which authorize
68 the appeal of a decision to revoke or suspend a license.

69 Section 49 of this bill prohibits an optometrist from ~~being employed by or~~ owning all or
70 any portion of an optometry practice under an assumed or fictitious name unless the
71 optometrist is issued a certificate of registration to practice optometry under the assumed or
72 fictitious name at a specific location. An application for the certificate must be accompanied
73 by certain proof satisfactory to the Board. Section 49 also requires certain names to be
74 displayed near the entrance of the office of an optometrist who is issued a certificate of
75 registration. Section 50 of this bill revises provisions relating to the unauthorized use of a
76 license to practice optometry or a renewal card for the license. Section 51 of this bill
77 authorizes the Board or the Executive Director of the Board to issue a duplicate license and
78 renewal card for each location at which a licensee practices optometry. Section 52 of this bill
79 requires a licensee to notify the Executive Director in writing before establishing an additional
80 location to practice optometry. Section 53 of this bill prohibits an optometrist from entering
81 into certain leases with a person who is not licensed as an optometrist. Section 53.5 of this
82 bill prohibits a person who is not licensed as an optometrist from supervising an
83 optometrist or controlling, dictating or influencing the professional judgment of a
84 licensed optometrist. Section 54 of this bill revises the requirements for an optometrist to
85 collaborate with an ophthalmologist. Section 55 of this bill sets forth the manner in which
86 service of process must be made and authorizes the transmission by electronic mail or
87 facsimile machine any notice that is required to be given by the Board or the Executive
88 Director of the Board to a ~~licensee~~ person. Section 56 of this bill authorizes any licensed
89 optometrist to administer topical diagnostic ophthalmic agents. Section 57 of this bill revises
90 provisions governing forms for prescriptions for contact lenses ~~[-]~~ and prohibits a
91 prescription for spectacle lenses from being construed in a certain manner. Section 57.5
92 of this bill authorizes the issuance of certain injunctions without proof of actual damage
93 sustained by a person and specifies that the issuance of those injunctions does not relieve
94 a person from criminal prosecution for any unauthorized practice of optometry.

95 Section 58 of this bill repeals certain provisions relating to the imposition of certain
96 greater penalties for a violation of the provisions of chapter 636 of NRS governing the
97 practice of optometry. Section 59 of this bill provides that any person who is licensed under
98 chapter 636 of NRS and who ~~commits~~ engages in certain ~~violations~~ grounds for
99 disciplinary action is liable to the Board for an administrative fine of not more than \$5,000
100 for each violation.

101 Section 64 of this bill repeals certain provisions governing the practice of optometry.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, ~~3 and 4~~ to 4.5, inclusive, of this act.

Sec. 2. "Pharmaceutical agent" means any topical or oral drug used or prescribed by a licensee ~~for~~ for the examination, management or treatment of an abnormality, disease or condition of the eye or its appendages, including, without limitation, any ~~narcoctic~~ analgesic drug subject to the requirements of NRS 636.2882 or added to schedule III, schedule IV or schedule V by the State Board of Pharmacy by regulation pursuant to NRS 453.146. The term does not include any drug or other substance added to schedule I or schedule II by the State Board of Pharmacy pursuant to that section.

Sec. 3. 1. In any setting where optometry is practiced, an assistant may fit ophthalmic lenses or spectacle lenses if the assistant acts under the direct ~~responsibility and personal~~ supervision of a licensed optometrist.

2. In addition to the provisions of subsection 1, an assistant in any setting where optometry is practiced may perform any of the following activities under the direct ~~responsibility and personal~~ supervision of a licensed optometrist:

(a) Prepare a patient for examination.

(b) Collect preliminary data concerning a patient, including taking the medical history of the patient.

(c) Perform simple ~~and~~ and noninvasive ~~and nonsubjective~~ testing of a patient in preparation for any subjective refraction, testing, evaluation, interpretation, diagnosis or treatment of the patient by the licensed optometrist.

(d) For an ophthalmic purpose, administer any cycloplegic or mydriatic agent or topical anesthetic that is not a controlled substance.

(e) Use an ophthalmic device or oversee ocular exercises, visual training, visual therapy or visual rehabilitation as directed by a licensed optometrist.

3. If an assistant conducts any activities pursuant to subsection 2, the licensed optometrist must conduct the final eye examination of the patient.

4. As used in this section, "assistant" means a person employed ~~to assist~~ by an optometrist ~~as authorized in this section~~ or any medical provider or medical facility at which the optometrist provides or offers to provide his or her services as an optometrist.

Sec. 4. 1. Notwithstanding any provision of this chapter to the contrary, a licensee, nonprofit or charitable organization, governmental agency or school in this State who obtains a certificate pursuant to this section may own or operate a mobile optometry clinic pursuant to this section. An application for the issuance or renewal of a certificate to own or operate the clinic must be submitted on a form approved by the Board and include any fees established by the Board pursuant to subsection ~~3~~ 4. As soon as practicable after receiving an application and the appropriate fees, the Board shall approve or deny the application based upon the criteria established by the Board pursuant to subsection ~~3~~ 4. A certificate issued to own or operate a mobile optometry clinic must be renewed on or before March 1 of each even-numbered year.

2. A certified mobile optometry clinic may include any equipment required to operate the clinic, including, without limitation, a motor vehicle or a motor vehicle and trailer which may be moved from one location to another. Any optometric services available at the clinic must be provided under the direction ~~and control~~ and control ~~and personal supervision~~ of a licensee. Any final examination of a patient at the mobile optometry clinic must be completed by the licensee.

1 3. A certified mobile optometry clinic may only provide optometric services
2 to:

- 3 (a) Governmental agencies;
4 (b) Patients with impaired or restricted mobility;
5 (c) Members of low-income and other medically underserved groups in the
6 State; and
7 (d) Academic programs.

8 4. The Board shall adopt:

- 9 (a) Regulations setting forth:
10 (1) The requirements for the issuance and renewal of a certificate to
11 operate a mobile optometry clinic; and
12 (2) The amount of the fees for the issuance and renewal of the
13 certificate; and
14 (b) Any other regulations necessary to carry out the provisions of this
15 section.

16 Sec. 4.5. 1. The Board may issue a certificate by endorsement to treat a
17 person diagnosed with glaucoma to an applicant who meets the requirements of
18 this section.

19 2. An applicant for a certificate by endorsement must submit an application
20 to the Executive Director in a form prescribed by the Board. The application must
21 include the following information:

- 22 (a) Proof satisfactory to the Board that the applicant:
23 (1) Holds a valid and unrestricted certificate or other credential approved
24 by the Board to engage in the treatment of a person with glaucoma issued in any
25 state, the District of Columbia, the Commonwealth of Puerto Rico or any other
26 territory or possession of the United States; and
27 (2) Has not previously been held criminally or civilly liable for any
28 malpractice relating to his or her certificate or other credential to treat a person
29 with glaucoma;

30 (b) An affidavit stating that the information set forth in the application and
31 any accompanying material is true and correct; and

32 (c) Any other information required by the Board.

33 3. Not later than 15 business days after receiving an application for a
34 certificate by endorsement to treat a person diagnosed with glaucoma, the
35 Executive Director shall provide a written notice to the applicant if any additional
36 information is required to consider the application. Unless the application is
37 denied for good cause, the Board shall approve the application and issue a
38 certificate to treat a person diagnosed with glaucoma by endorsement within 45
39 days after receiving the application.

40 Sec. 5. NRS 636.015 is hereby amended to read as follows:

41 636.015 As used in this chapter, unless the context otherwise requires, the
42 words and terms defined in NRS 636.016 to ~~{636.024,}~~ 636.023, inclusive, and
43 section 2 of this act have the meanings ascribed to them in those sections.

44 Sec. 6. NRS 636.016 is hereby amended to read as follows:

45 636.016 "Advertise" means the commercial use of any medium, including,
46 but not limited to, any brochures or business cards, the Internet, radio or
47 television, or a newspaper, magazine, sign or other printed {matter,} or electronic
48 medium, by an optometrist to bring the services or materials offered by the
49 optometrist to the attention of members of the general public.

50 Sec. 7. NRS 636.018 is hereby amended to read as follows:

51 636.018 "Contact lens" means an ophthalmic lens prescribed for application
52 on the anterior surface of the eye. *The term includes any plano lens or cosmetic*
53 *lens.*

1 **Sec. 8.** NRS 636.019 is hereby amended to read as follows:

2 636.019 "Diagnostic pharmaceutical agents" means ~~{topical ophthalmic~~
3 ~~anesthetics and topical cycloplegics, miotics and mydriatics.}~~ any topical or oral
4 agents used to examine and diagnose conditions of the eye ~~or~~ or adnexa.

5 **Sec. 9.** NRS 636.022 is hereby amended to read as follows:

6 636.022 "Prescription" means:

7 1. An order given individually for the person for whom prescribed, directly
8 from a licensed optometrist who is certified to prescribe and administer
9 ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288, or his or her agent,
10 to a pharmacist or indirectly by means of an order signed by the licensed
11 optometrist or an electronic transmission from the licensed optometrist to a
12 pharmacist; or

13 2. A written direction from a licensed optometrist to:

14 (a) Prepare an ophthalmic lens for a patient; or

15 (b) Dispense a prepackaged contact lens that does not require any adjustment,
16 modification or fitting.

17 **Sec. 10.** NRS 636.025 is hereby amended to read as follows:

18 636.025 1. The acts set forth in this section, or any of them, whether done
19 severally, collectively or in combination with other acts that are not set forth in this
20 section constitute practice in optometry within the purview of this chapter:

21 (a) Advertisement or representation as an optometrist.

22 (b) Adapting, ~~or replacing, duplicating,}~~ prescribing or dispensing, without a
23 valid prescription by a practitioner of optometry or medicine licensed in this State,
24 any ophthalmic lens, frame or mounting, or any part thereof, for correction, relief or
25 remedy of any abnormal condition or insufficiency of the eye or any appendage or
26 visual process. The provisions of this paragraph do not prevent ~~under~~
27 ~~extraordinary or exigent circumstances, an optical mechanic from doing the mere~~
28 ~~mechanical work of replacement or duplication of the ophthalmic lens, if the~~
29 ~~optical mechanic receives a valid prescription from the person for whom the~~
30 ~~mechanical work is performed, or prevent~~ a licensed dispensing optician from
31 engaging in the practice of ophthalmic dispensing ~~if, if the optician receives a~~
32 ~~valid prescription from the person for whom the ophthalmic dispensing is~~
33 ~~performed,}~~ in accordance with the provisions of chapter 637 of NRS.

34 (c) The examination, evaluation, diagnosis and treatment of the human eye
35 and its appendages, the measurement of the powers or range of human vision ~~by~~
36 ~~any means, including, without limitation, the use of an autorefractor or other~~
37 ~~automated testing device, unless performed under the direct responsibility and~~
38 ~~personal supervision of a licensed optometrist as authorized in section 3 of this~~
39 ~~act,~~ the determination of the accommodative and refractive states of the eye or the
40 scope of its function in general, or the diagnosis or determination of any visual,
41 muscular, neurological, interpretative or anatomic anomalies or deficiencies of the
42 eye or its appendages or visual processes.

43 (d) Prescribing, directing the use of or using any optical device in connection
44 with ocular exercises, orthoptics, vision rehabilitation, vision therapy or visual
45 training.

46 (e) The prescribing of contact lenses.

47 (f) The measurement, initial fitting, as defined in NRS 636.387, or adaptation
48 of contact lenses to the human eye except under the direction, responsibility and
49 ~~personal}~~ supervision of ~~a physician, surgeon or~~ an optometrist licensed in the
50 State of Nevada ~~as authorized in section 3 of this act.~~

51 (g) The topical use of ~~{diagnostic}~~ pharmaceutical agents to determine any
52 visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies
53 of the eye or its appendages or visual processes.

(h) Prescribing, directing the use of or using a ~~{therapeutic}~~ pharmaceutical agent *or device* to treat an abnormality of the eye or its appendages.

(i) ~~Removing~~ ~~*{Surgically removing}*~~ a foreign object from the surface or epithelium of the eye.

(j) ~~*{Surgically removing}*~~ *Removing eyelashes* ~~*{}*~~ *with forceps.*

(k) ~~*{Surgically removing any superficial lesion of the eye or adnexa.*~~

~~*{}*~~ ~~*{Surgically closing}*~~ *Closing the lacrimal punctum of the eye.*

~~*{(m)}*~~ *(l)* The ordering *or performing* of laboratory tests *or imaging* to assist in the diagnosis of an abnormality of the eye or its appendages.

2. The provisions of this section do not authorize an optometrist to engage in any practice which includes:

(a) ~~*{The incision or suturing of the eye or its appendages;}*~~ *Any procedure using a laser, scalpel, needle or other instrument in which any human tissue is cut, burned or vaporized by incision, injection, ultrasound, laser, infusion, cryotherapy, radiation or other means; or*

(b) ~~*{The use of lasers for surgical purposes;}*~~ *Any procedure using an instrument which requires the closure of human tissue by suture, clamp or similar device.*

Sec. 10.5. NRS 636.027 is hereby amended to read as follows:

636.027 This chapter ~~*{shall}*~~:

1. *Applies to any person who is licensed to practice optometry pursuant to this chapter and any other person engaged in the practice of optometry in this State.*

2. *Must not be construed to apply to physicians and surgeons duly licensed to practice in this State.*

Sec. 11. NRS 636.028 is hereby amended to read as follows:

636.028 1. Except as provided in subsection 2, a person is exempt from the provisions of this chapter regulating the practice of optometry if the person is engaged in a clinical program of a school or college of optometry accredited by the Board and if the person is ~~*{}*~~:

~~*{(a)}*~~ *A} a student who is enrolled in a clinical program of an undergraduate or graduate course of study in optometry at such a school or college ~~*{; or}*~~*

~~*{(b)}*~~ *Licensed to practice optometry in another state and is employed as a clinician or instructor at such a school or college.} and who has not received a degree of doctor of optometry.*

2. A person who is employed as a clinician or instructor and who engages in the practice of optometry in this State is required to be licensed by the Board.

Sec. 12. NRS 636.080 is hereby amended to read as follows:

636.080 1. ~~*{Within a reasonable time after the appointment of a new member;}*~~ *At the first meeting of the Board held each fiscal year,* the Board shall meet and organize by electing from its membership a President who shall hold office for 1 year and until the election and qualification of his or her successor.

2. The Board shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive compensation as set by the Board. The Executive Director must not be a member of the Board. If a vacancy occurs in the position of Executive Director, the Board may appoint one of its members to perform the duties of the Executive Director until the position is filled. A member of the Board who is appointed to perform the duties of the Executive Director is not entitled to receive any ~~*{additional}*~~ compensation for performing those duties.

Sec. 13. NRS 636.085 is hereby amended to read as follows:

636.085 ~~*{}*~~ The Executive Director shall ~~*{, before undertaking the duties of}*~~ Executive Director, make and deliver to the Governor a good and sufficient bond payable to the State of Nevada for the benefit of the Board, in the amount

1 designated by the Board, conditioned upon the faithful performance of his or her
2 duties as Executive Director. The Executive Director shall file a copy of the bond
3 with the Board.

4 ~~2. The Executive Director shall~~ receive, maintain and disburse money on
5 behalf of the Board and shall perform all duties imposed upon him or her pursuant
6 to the provisions of this chapter and such other duties as the Board may prescribe.

7 Sec. 14. NRS 636.090 is hereby amended to read as follows:

8 636.090 1. The Board may employ:

9 (a) Agents and inspectors to secure evidence of, and report on, violations of
10 this chapter.

11 (b) Attorneys, investigators, *consultants* and other professional ~~consultants~~
12 and clerical personnel necessary to administer this chapter.

13 2. The Attorney General may act as counsel for the Board subject to the
14 provisions of NRS 622A.200.

15 Sec. 15. NRS 636.107 is hereby amended to read as follows:

16 636.107 1. Except as otherwise provided in this section and NRS 239.0115,
17 a complaint filed with the Board, all documents and other information filed with the
18 complaint and all documents and other information compiled as a result of an
19 investigation conducted to determine whether to initiate disciplinary action are
20 confidential ~~and~~ unless the person against whom the complaint is filed submits a
21 written statement to the Board requesting that the documents and other
22 information be made public records.

23 2. ~~The~~ charging document ~~filed by~~ the Board uses to
24 initiate disciplinary action pursuant to chapter 622A of NRS and all documents
25 and information considered by the Board when determining whether to impose
26 discipline are public records.

27 3. The provisions of this section do not prohibit the Board from
28 communicating or cooperating with or providing any documents or other
29 information in the Board's possession concerning a licensee or pending
30 investigation to any other licensing board or any other governmental agency that
31 is investigating a person, including, without limitation, a law enforcement
32 agency, agency of the federal government, licensing board in this State or any
33 other state or territory of the United States. If any confidential information
34 concerning an investigation is provided to another governmental agency
35 pursuant to this section, the information remains confidential and may not be
36 provided to any other person or governmental agency. To the extent practicable,
37 any governmental agency that receives any confidential information from the
38 Board pursuant to this section shall treat the information as confidential.

39 Sec. 16. ~~NRS 636.110 is hereby amended to read as follows:~~

40 ~~636.110 1. Except as otherwise provided in subsection 3, all money coming~~
41 ~~into possession of the Board must be deposited by the Executive Director in a~~
42 ~~special fund to be expended for payment of compensation and expenses of~~
43 ~~members of the Board and for other necessary or proper purposes in the~~
44 ~~administration of this chapter. The Executive Director shall deposit the money in~~
45 ~~banks, credit unions, savings and loan associations or savings banks in this State [.]~~
46 ~~or invest the money in treasury bills or notes of the United States.~~

47 ~~2. The Board may delegate to a hearing officer or panel its authority to take~~
48 ~~any disciplinary action pursuant to this chapter, impose and collect administrative~~
49 ~~finances and penalties therefor and forward the money therefrom to the Executive~~
50 ~~Director for deposit in banks, credit unions, savings and loan associations or~~
51 ~~savings banks in this State [.] or investment in treasury bills or notes of the United~~
52 ~~States.~~

~~3. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2 and the Board deposits the money collected from the imposition of administrative fines and penalties with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both. (Deleted by amendment.)~~

Sec. 17. NRS 636.120 is hereby amended to read as follows:

636.120 ~~{Once each year, the}~~ *The* Board shall *periodically* prepare and ~~{distribute}~~ *make available* to all licensees a roster containing their names and mailing addresses.

Sec. 18. NRS 636.125 is hereby amended to read as follows:

636.125 The Board may adopt *policies* ~~f, rules~~ and regulations necessary to carry out the provisions of this chapter.

Sec. 19. NRS 636.135 is hereby amended to read as follows:

636.135 The Board shall accredit schools , *or approve the accreditation of schools by any nationally recognized accrediting organization or agency*, in and out of this State teaching the science and art of optometry which it finds ~~{are giving}~~ *provide* a sufficient and thorough course of study for the preparation of optometrists.

Sec. 20. NRS 636.143 is hereby amended to read as follows:

636.143 ~~{1. The}~~ *At least once every 2 years, the* Board shall *review and, if the Board deems it necessary, establish or revise, within the limits prescribed for* ~~revise~~ a schedule of fees for the following purposes:

~~{Not less than — Not more than}~~

Examination	\$100	\$500
Reexamination	100	500
Issuance of each license or duplicate license, including a license by endorsement	35	75
Renewal of each license or duplicate license	100	500
Issuance of a license for an extended clinical facility	100	500
Issuance of a replacement renewal card for a license	10	50

~~2. If an applicant submits an application for a license by endorsement pursuant to NRS 636.207, the Board shall collect not more than one half of the fee established pursuant to subsection 1 for the initial issuance of the license.~~

Not more than

1. Examinations f, f	\$250
2. Applications for the issuance of a <u>1 year</u> license f, f	\$600
3. Renewal of a license f, f	\$1,200
4. Granting certification or issuing certificates f, f	\$1,000
5. Licensing of extended clinical facilities and other practice locations f, f	\$500
6. Individually verifying licensure or disciplinary status	\$100
7. Late fee	\$1,000
8. Any other service provided by the Board	

pursuant to this chapter ~~§~~..... \$1,000

Sec. 21. NRS 636.145 is hereby amended to read as follows:

636.145 1. A person shall not engage in the practice of optometry in this State unless:

(a) ~~§~~ The person has obtained a license pursuant to the provisions of this chapter; and

(b) ~~§~~ Except for the year in which such license was issued, the person holds a current renewal card for the license.

2. The Board shall conduct an investigation pursuant to subsection 3 if the Board receives a complaint which sets forth any reason to believe that a person has engaged in the practice of optometry in this State without a license issued pursuant to this chapter.

3. In addition to any other penalty prescribed by law, if the Board, after conducting an investigation and hearing in accordance with chapters 233B, 622 and 622A of NRS, determines that a person has committed any act described in subsection 1, the Board may:

(a) Issue and serve on the person an order to cease and desist from the practice of optometry until the person obtains a license from the Board. ~~{the proper license or otherwise demonstrates that he or she is no longer in violation of subsection 1. An order to cease and desist must include a telephone number with which the person may contact the Board.}~~

(b) Issue a citation to the person. ~~{A citation issued pursuant to this paragraph must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this paragraph. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.}~~

~~(c) Assess against the person an administrative fine as provided in NRS 636.420.~~

~~(d) ~~(c)~~ Impose any combination of the penalties set forth in paragraphs (a) ~~§~~ and (b) ~~§~~. ~~{and (c)}~~~~

4. Unless the Board determines that extenuating circumstances exist, the Board shall forward to the appropriate law enforcement agency any substantiated information submitted to the Board concerning a person who practices or offers to practice optometry without a license issued pursuant to this chapter.

5. Each instance of unlicensed activity constitutes a separate offense for which a separate citation may be issued.

Sec. 22. NRS 636.150 is hereby amended to read as follows:

636.150 ~~{Except as otherwise provided in NRS 636.206 and 636.207, any}~~ Any person applying for a license to practice optometry in this State must:

1. File proof of his or her qualifications;

2. ~~{Make application for an examination;~~

~~3. Take and pass ~~{the}~~ each examination ~~§~~~~

~~4. identified, administered or approved by the Board;~~

3. Pay the prescribed fees; and

~~5. 4.~~ Verify that all the information he or she has provided to the Board or to any other entity pursuant to the provisions of this chapter is true and correct.

Sec. 23. NRS 636.155 is hereby amended to read as follows:

636.155 ~~{Except as otherwise provided in NRS 636.206 and 636.207, an}~~ An applicant must file with the Executive Director satisfactory proof that the applicant:

1. Is at least 21 years of age;

2. Is a citizen of the United States or is lawfully entitled to reside and work in this country;

1 3. ~~{Is of good moral character;~~
2 ~~—4. Has been certified or recertified as completing a course of cardiopulmonary~~
3 ~~resuscitation within the 12-month period immediately preceding the examination~~
4 ~~for licensure; and~~

5 ~~—5.} Has graduated from a school of optometry accredited or approved by the~~
6 ~~{established professional agency and the Board, maintaining a standard of 6 college~~
7 ~~years, and including, as a prerequisite to admission to the courses in optometry, at~~
8 ~~least 2 academic years of study in a college of arts and sciences accredited by the~~
9 ~~Association of American Universities or a similar regional accrediting agency.}~~
10 *Board pursuant to NRS 636.135;*

11 4. *Has passed each part of the comprehensive national optometry*
12 *examination administered by the National Board of Examiners in Optometry or*
13 *its successor;*

14 5. *Has passed each examination identified, administered or approved by the*
15 *Nevada State Board of Optometry pursuant to NRS 636.150; and*

16 6. *Has not been disciplined for harming a patient as a licensed optometrist*
17 *in another state.*

18 **Sec. 24.** NRS 636.170 is hereby amended to read as follows:

19 636.170 ~~{1. The Board shall:~~

20 ~~—(a) Conduct a regular annual examination, and may conduct a special~~
21 ~~examination when it deems that circumstances warrant such examination.~~

22 ~~—(b) Fix and announce the time and place of any examination at least 30 days~~
23 ~~prior to the day when it is to be commenced.~~

24 ~~—2.} The member of the Board who is a representative of the general public~~
25 ~~shall not participate in preparing, conducting or grading any examination required~~
26 ~~by the Board.~~

27 **Sec. 25.** NRS 636.180 is hereby amended to read as follows:

28 636.180 An examination must:

29 1. Be practical in character and design as determined by the Board;

30 2. Test the fitness of the examinee to practice optometry; *and*

31 3. Be prepared and administered by the Board or a testing agency that has
32 been designated by the Board to conduct its examinations. ~~{; and~~

33 ~~—4. Be conducted in the English language.}~~

34 **Sec. 26.** NRS 636.190 is hereby amended to read as follows:

35 636.190 Except as otherwise provided in NRS 622.090, a grade of ~~{75}~~ 70 or
36 higher for each area tested ~~{on the examination}~~ is required to pass ~~{an}~~ *the*
37 *examination.*

38 **Sec. 27.** NRS 636.215 is hereby amended to read as follows:

39 636.215 The Board shall execute a license for each person who has satisfied
40 the requirements of NRS 636.150, 636.155, 636.206 or 636.207 and submitted all
41 information *and fees* required to complete an application for a license. A license
42 must:

43 1. Certify that the licensee has been examined and found qualified to practice
44 optometry in this State; and

45 2. ~~{Be signed by each member}~~ *Bear the signatures of the President of the*
46 *Board {;} and the Executive Director.*

47 **Sec. 28.** NRS 636.227 is hereby amended to read as follows:

48 636.227 1. The Board may grant a license to an accredited school or college
49 of optometry to establish an extended clinical facility for the treatment of visual
50 disorders and shall adopt reasonable regulations and establish procedures for such
51 purpose. If a license is granted, it is effective ~~{for}~~ only ~~{1}~~ *until February 28 of the*
52 *next even-numbered year unless renewed by the Board {;} upon payment of the fee*
53 *for the renewal of the license established pursuant to NRS 636.143.*

2. An accredited school or college of optometry which desires to establish an extended clinical facility for the treatment of visual disorders in this State must apply to the Board for a license, and the application must contain the following information:

- (a) The name and address of the proposed facility;
- (b) The date when the school or college desires to commence operation of the facility;
- (c) A brief description of the facility and of the equipment which will be available for use there;
- (d) The kinds of optometric services to be rendered; and
- (e) The name and address of each instructor or clinician to be employed at the facility, his or her academic qualifications and any licenses which entitle the instructor or clinician to practice optometry in this or any other state.

3. Every school or college of optometry which operates a licensed facility in this State shall notify the Board if the school or college changes its instructors or clinicians, the location of the facility or the content of a clinical program.

4. Nothing in this section authorizes a licensed optometrist to engage in any acts which are beyond the scope of his or her license issued in accordance with the provisions of this chapter.

5. For the purposes of this section, "extended clinical facility for the treatment of visual disorders" means a clinical facility which renders optometric services and is operated by an accredited school or college of optometry, but which is located beyond the boundaries of the principal campus of the school or college.

Sec. 29. NRS 636.250 is hereby amended to read as follows:

636.250 A license issued under this chapter or any former law must be renewed pursuant to the provisions of NRS 636.250 to 636.285, inclusive, before March 1 of each *even-numbered* year.

Sec. 30. NRS 636.255 is hereby amended to read as follows:

636.255 The Executive Director shall ~~mail~~ *provide* a notice of *the deadline for the renewal of a license* to each licensee before February 1 of each *even-numbered* year. The failure of the Executive Director to notify a licensee does not excuse the licensee from the requirements of NRS 636.250.

Sec. 31. NRS 636.260 is hereby amended to read as follows:

636.260 1. Before March 1 of each *even-numbered* year, each licensee shall pay a renewal fee to the Executive Director in the amount ~~specified in~~ *established pursuant to* NRS 636.143. For the purposes of this subsection, the date of the postmark on any payment received by mail shall be deemed to be the date of receipt by the Executive Director.

2. The renewal fee must be accompanied by satisfactory evidence that the licensee has, within the immediately preceding ~~12-month~~ *24-month* period, completed the required number of hours in a course or courses of continuing education that have been approved by the Board. This evidence must be indicated on the form for proof of completion of continuing education that is furnished by the Board. The Board shall not require a licensee to complete more than ~~24-48~~ *40* hours of continuing education during each ~~year~~ *period of renewal*. The Board may waive the requirement that a licensee complete all or part of the required number of hours of continuing education upon good cause shown by the licensee.

3. A licensee who is certified to administer and prescribe ~~therapeutic~~ pharmaceutical agents pursuant to NRS 636.288 must, at the time of paying the renewal fee, present evidence satisfactory to the Executive Director that, during the ~~12~~ *24* months immediately preceding the payment of the renewal fee, the licensee completed an educational or postgraduate program approved by the Board. The

1 Board shall establish the number of hours for completion of the program which
2 must be not less than ~~{30-60}~~ 50 hours nor more than ~~{50}~~ 100 hours.

3 **Sec. 32.** NRS 636.265 is hereby amended to read as follows:

4 636.265 Upon payment of the renewal fee, submission of evidence of
5 completion of the required number of hours of continuing education and
6 submission of all information required to complete the renewal, the Executive
7 Director shall execute and issue a renewal card for the license to the licensee,
8 certifying that the license has been renewed for a ~~{12-month}~~ 24-month period
9 beginning March 1 of each *even-numbered* year. The renewal card must indicate
10 the address of the place of the licensee's practice for which the card is issued and be
11 displayed prominently at that location. The renewal card must be signed by the
12 Executive Director. ~~{and sealed with the seal of the Board.}~~

13 **Sec. 33.** NRS 636.270 is hereby amended to read as follows:

14 636.270 If a licensee fails to comply with the provisions of NRS 636.260 on
15 or before the prescribed date, the license must be suspended effective March 1 ~~{,}~~ of
16 *the year of the prescribed date* and must remain suspended until it is restored in the
17 manner specified in NRS 636.275 ~~{,}~~ *or expires pursuant to that section,*
18 *whichever occurs first.*

19 **Sec. 34.** NRS 636.275 is hereby amended to read as follows:

20 636.275 1. A license which has been suspended for failure of the licensee to
21 pay the ~~{annual}~~ renewal fee, ~~{or}~~ to submit all information required to complete
22 the renewal *or to submit evidence of completion of the required number of hours*
23 *of continuing education* may be restored at any time ~~{during the calendar year}~~
24 *within 90 days after the suspension of the license* upon the licensee:

25 (a) Paying the ~~{annual}~~ renewal fee;

26 (b) Paying ~~{the Executive Director}~~ a ~~{nonrenewal penalty}~~ *late fee* in the
27 amount prescribed by ~~{NRS 636.285; and}~~ *the Board;*

28 (c) Submitting all required information ~~{.~~

29 ~~—2. A license which has been suspended for failure of the licensee to submit~~
30 ~~evidence of completion of ; and~~

31 (d) *Completing* the required number of hours of continuing education. ~~{may~~
32 ~~be restored upon the licensee completing the continuing education, if such~~
33 ~~completion occurs during the calendar year in which the suspension has occurred.~~

34 ~~—3.~~

35 2. Any license suspended pursuant to the provisions of NRS 636.270 ~~{must be~~
36 ~~revoked at the end of the calendar year during which it was suspended}~~ *expires 91*
37 *days after the suspension of the license* unless the license is restored pursuant to
38 subsection 1. ~~{or 2.}~~

39 **Sec. 35.** NRS 636.286 is hereby amended to read as follows:

40 636.286 An optometrist shall not administer or prescribe a ~~{therapeutic}~~
41 pharmaceutical agent *other than a diagnostic pharmaceutical agent* unless the
42 optometrist has obtained a certificate pursuant to NRS 636.288.

43 **Sec. 36.** NRS 636.287 is hereby amended to read as follows:

44 636.287 The Board shall adopt regulations which prescribe the requirements
45 for certification to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents
46 pursuant to NRS 636.288. The requirements must include:

47 1. A license to practice optometry in this State;

48 2. The successful completion of the "Treatment and Management of Ocular
49 Disease Examination" administered by the National Board of Examiners in
50 Optometry ~~{on or after January 1, 1993,}~~ or an equivalent examination approved by
51 the Board; and

3. The successful completion of not fewer than 40 hours of clinical training in administering and prescribing ~~{therapeutic}~~ pharmaceutical agents in a training program which is conducted by an ophthalmologist and approved by the Board.

Sec. 37. NRS 636.288 is hereby amended to read as follows:

636.288 The Board shall provide to:

1. Each optometrist who has complied with the requirements adopted by the Board pursuant to NRS 636.287, a certificate to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents.

2. The State Board of Pharmacy the name of each optometrist it certifies pursuant to this section.

Sec. 38. NRS 636.2881 is hereby amended to read as follows:

636.2881 The Board shall, by regulation, require each optometrist who is certified to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288 and who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least 2 hours of training relating specifically to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure. Any licensee may use such training to satisfy 2 hours of any continuing education requirement established by the Board.

Sec. 39. NRS 636.2882 is hereby amended to read as follows:

636.2882 An optometrist who is certified to administer and prescribe a ~~{therapeutic}~~ pharmaceutical agent pursuant to NRS 636.288 shall not prescribe ~~{an analgesic of hydrocodone with compounds, codeine with compounds or propoxyphene with compounds}~~ a controlled substance unless the optometrist:

1. Has completed an optometric examination of the patient for whom the ~~{therapeutic pharmaceutical agent}~~ controlled substance is prescribed;

2. Prescribes the ~~{therapeutic pharmaceutical agent}~~ controlled substance in an amount that does not exceed 90 morphine milligram equivalents per day and will not last more than 72 hours; and

3. Sets forth in the prescription for the ~~{therapeutic pharmaceutical agent}~~ controlled substance that the prescription may not be refilled ~~{ }~~ without a subsequent examination of the patient by the optometrist.

Sec. 40. NRS 636.2891 is hereby amended to read as follows:

636.2891 1. An optometrist ~~{whose initial license to practice optometry is issued on or after October 1, 2020, may treat a person with glaucoma without obtaining a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895 in addition to his or her license to practice optometry.~~

~~2. An optometrist whose initial license to practice optometry is issued before October 1, 2020,~~ shall not treat a person diagnosed with glaucoma unless the optometrist has been issued a certificate by the Board pursuant to NRS 636.2895 ~~{ }~~ or certification by endorsement pursuant to section 4.5 of this act.

~~2. {3-}~~ An optometrist ~~{who}~~ , regardless of whether he or she has been issued a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895 ~~{ }~~ or certification by endorsement pursuant to section 4.5 of this act, shall refer a patient diagnosed with glaucoma to an ophthalmologist for treatment if any one of the following is applicable:

(a) The patient is under 16 years of age.

(b) The patient has been diagnosed with ~~{malignant}~~ any type of glaucoma ~~{or neovascular}~~ other than open angle glaucoma.

(c) The patient has been diagnosed with acute closed angle glaucoma. The provisions of this paragraph do not prohibit the optometrist from administering any appropriate nonsurgical emergency treatment to the patient.

~~{(d) The patient's glaucoma is caused by diabetes, and, after joint consultation with a physician who is treating the diabetes and an ophthalmologist, the physician~~

1 ~~or ophthalmologist determines that the patient should be treated by an~~
2 ~~ophthalmologist. If an optometrist determines that a patient's glaucoma is caused~~
3 ~~by diabetes, the optometrist shall consult with a physician and ophthalmologist in~~
4 ~~the manner provided in this paragraph.]~~

5 **Sec. 41.** NRS 636.2893 is hereby amended to read as follows:

6 636.2893 The Board shall adopt regulations that prescribe the requirements
7 for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant
8 to NRS 636.2895. The requirements must include, without limitation:

9 1. A license to practice optometry in this State;
10 2. The successful completion of the "Treatment and Management of Ocular
11 Disease Examination" administered by the National Board of Examiners in
12 Optometry ~~[on or after January 1, 1993,]~~ or an equivalent examination approved by
13 the Board; ~~and]~~

14 3. Proof that each optometrist who applies for a certificate has treated at least
15 15 persons who were:

16 (a) Diagnosed with glaucoma by an ophthalmologist licensed in this State; and

17 (b) Treated by the optometrist, in consultation with that ophthalmologist, for at
18 least 12 consecutive months ~~+~~ ; and

19 4. A certificate to administer and prescribe pharmaceutical agents issued
20 pursuant to NRS 636.288.

21 **Sec. 41.5.** NRS 636.290 is hereby amended to read as follows:

22 636.290 1. Any person licensed pursuant to the provisions of this chapter or
23 engaged in the unlawful practice of optometry without a license may be disciplined
24 by the Board for cause in the manner specified in this chapter. *A person licensed to*
25 *practice optometry in this State is subject to the jurisdiction of the Board for any*
26 *act specified in this chapter, regardless of whether the license is expired,*
27 *suspended or revoked.*

28 2. Unless the Board takes action pursuant to NRS 636.325, the Board may
29 discipline a licensee for a violation of any provision of this chapter or regulation
30 adopted pursuant to this chapter in one or more of the following ways, with or
31 without the imposition by the Board of a monetary penalty:

32 (a) Issuing a letter of public reprimand;

33 (b) Issuing an order to cease and desist;

34 (c) Issuing an order of probation for a specified period, with or without
35 conditions;

36 (d) Issuing an order of suspension for a specified period, with or without
37 conditions; or

38 (e) Issuing an order of revocation, with or without permission to apply for
39 licensure at a future date.

40 **Sec. 42.** NRS 636.295 is hereby amended to read as follows:

41 636.295 The following acts, conduct, omissions, or mental or physical
42 conditions, or any of them, committed, engaged in, omitted, or being suffered by a
43 licensee, constitute sufficient cause for disciplinary action:

44 1. ~~[Affliction of the licensee with any communicable disease likely to be~~
45 ~~communicated to other persons.~~

46 ~~—2.]~~ Commission by the licensee of a felony relating to the practice of
47 optometry or a gross misdemeanor involving moral turpitude of which the licensee
48 has been convicted and from which he or she has been sentenced by a final
49 judgment of a federal or state court in this or any other state, the judgment not
50 having been reversed or vacated by a competent appellate court and the offense not
51 having been pardoned by executive authority.

52 ~~[3. Conviction of any of the provisions of NRS 616D.200, 616D.220,~~
53 ~~616D.240 or 616D.300 to 616D.440, inclusive.~~

1 ~~4.~~ 2. Commission of fraud by or on behalf of the licensee in obtaining a
2 license or a renewal thereof, or in practicing optometry thereunder.

3 ~~5.~~ 3. Habitual drunkenness or addiction to any controlled substance.

4 ~~6.~~ 4. Gross incompetency.

5 ~~7.~~ 5. Affliction with any mental or physical disorder or disturbance
6 seriously impairing his or her competency as an optometrist.

7 ~~8.~~ 6. Making false or misleading representations, by or on behalf of the
8 licensee, with respect to optometric materials or services.

9 ~~9.~~ 7. Practice by the licensee, or attempting or offering so to do, while in an
10 intoxicated condition.

11 ~~10.~~ 8. Perpetration of unethical or unprofessional conduct in the practice of
12 optometry.

13 ~~11. Knowingly procuring or administering a controlled substance or a
14 dangerous drug as defined in chapter 454 of NRS that is not approved by the United
15 States Food and Drug Administration, unless the unapproved controlled substance
16 or dangerous drug:~~

17 ~~—(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of
18 NRS;~~

19 ~~—(b) Was procured through a Canadian pharmacy which is licensed pursuant to
20 chapter 639 of NRS and which has been recommended by the State Board of
21 Pharmacy pursuant to subsection 4 of NRS 639.2328; or~~

22 ~~—(c) Is marijuana being used for medical purposes in accordance with chapter
23 453A of NRS.~~

24 ~~12.~~ 9. Any violation of the provisions of this chapter or any regulations
25 adopted pursuant thereto.

26 ~~13.~~ 10. Operation of a medical facility, as defined in NRS 449.0151, at any
27 time during which:

28 (a) The license of the facility is suspended or revoked; or

29 (b) An act or omission occurs which results in the suspension or revocation of
30 the license pursuant to NRS 449.160.

31 ➡ This subsection applies to an owner or other principal responsible for the
32 operation of the facility.

33 ~~14. Failure to obtain any training required by the Board pursuant to NRS
34 636.2881.~~

35 ~~15.~~ 11. Failure to comply with the provisions of NRS 453.163, 453.164,
36 453.226, 639.23507, 639.2391 to 639.23916, inclusive, and any regulations adopted
37 by the State Board of Pharmacy pursuant thereto.

38 ~~16.~~ 12. Fraudulent, illegal, unauthorized or otherwise inappropriate
39 prescribing, administering or dispensing of a controlled substance listed in schedule
40 II, III or IV.

41 13. Failure to comply with any provision of chapter 89 of NRS relating to a
42 professional entity or association that offers optometric services.

43 14. Any violation of a state or federal law or regulation relating to or
44 involving the practice of optometry, including, without limitation, a violation
45 relating to:

46 (a) The organizational structure or control of any optometric practice or
47 entity;

48 (b) The maintenance, availability or distribution of any medical record of a
49 patient;

50 (c) The improper disclosure of any protected information of a patient; and

51 (d) Fraud.

1 **Sec. 43.** NRS 636.300 is hereby amended to read as follows:

2 636.300 The following acts, among others, constitute unethical or
3 unprofessional conduct:

4 1. Association as an optometrist with any person, firm or corporation
5 violating this chapter.

6 2. Accepting employment, directly or indirectly, from a person not licensed to
7 practice optometry in this State to assist the person in such practice or enabling the
8 person to engage therein, except as authorized in NRS 636.347.

9 3. Signing the prescription blanks of another ~~{optometrist}~~ *person* or allowing
10 another ~~{optometrist}~~ *person* to use his or her prescription blanks.

11 ~~{4. Except as otherwise provided in NRS 636.372 and 636.373, practicing in~~
12 ~~or on premises where any materials other than those necessary to render optometric~~
13 ~~examinations or services are dispensed to the public, or where a business is being~~
14 ~~conducted not exclusively devoted to optometry or other healing arts and materials~~
15 ~~or merchandise are displayed having no relation to the practice of optometry or~~
16 ~~other healing arts.}~~

17 **Sec. 44.** NRS 636.301 is hereby amended to read as follows:

18 636.301 The following acts, among others, constitute unethical or
19 unprofessional conduct:

20 1. Division of fees with another optometrist or a health maintenance
21 organization, except where the division is made in proportion to the services
22 performed for the patient and the responsibility assumed by each.

23 2. Division of fees or any understanding or arrangement *which is designed or*
24 *tends to impair, influence or affect the independent judgment or practice of the*
25 *optometrist* with any person who is not an optometrist or a health maintenance
26 organization, unless in accordance with NRS 636.374.

27 **Sec. 45.** NRS 636.302 is hereby amended to read as follows:

28 636.302 The following acts, among others, constitute unethical or
29 unprofessional conduct:

30 1. ~~{Making a house-to-house canvass, either in person or by another person,~~
31 ~~for advertising, selling or soliciting the sale of eyeglasses, frames, lenses,~~
32 ~~mountings, or optometric examinations or services.~~

33 ~~—2.}~~ Circulating or publishing, directly or indirectly, any false, fraudulent or
34 misleading statement as to optometric materials or services, his or her method of
35 practice or skill, or the method of practice or skill of any other licensee.

36 ~~{3.}~~ 2. Advertising in any manner that will tend to deceive, defraud or
37 mislead the public.

38 ~~{4.}~~ 3. Advertising, directly or indirectly, free optometric examinations . ~~{or~~
39 ~~services.}~~

40 **Sec. 46.** NRS 636.305 is hereby amended to read as follows:

41 636.305 1. A complaint may be made against a licensee by:

42 ~~{1.}~~ (a) An ~~{agent}~~ *employee* or ~~{inspector employed by}~~ *contractor* of the
43 Board; or

44 ~~{2.}~~ (b) Any ~~{other}~~ licensee ~~{;}~~ or

45 ~~{3.}~~ Any aggrieved *other* person,

46 ↪ ~~{charging}~~ alleging one or more ~~{of the causes}~~ *grounds* for disciplinary action
47 ~~{with such particularity as to enable the defendant licensee to prepare a defense.}~~ set
48 forth in NRS 636.295.

49 2. As soon as practicable after a complaint is filed with the Board, the
50 Executive Director or his or her designee shall review the complaint. If the
51 Executive Director determines that the complaint is not frivolous and alleges one
52 or more of the grounds for disciplinary action set forth in NRS 636.295, the

Board, through the Executive Director, shall cause the complaint to be investigated.

3. The Board shall retain each complaint received pursuant to this section for not less than 10 years, including, without limitation, any complaint which is not acted upon.

Sec. 47. NRS 636.310 is hereby amended to read as follows:

636.310 1. A complaint ~~[must]~~ :

~~[1.] (a) Must~~ be made in writing ~~[. The original complaint and two copies must be filed with the Executive Director. A complaint may] and be signed and ~~[verified]~~ sworn to or affirmed by the person making it.~~

~~[2.] (b) May not~~ be filed anonymously ~~[.] [If a complaint is filed anonymously, the Board may accept the complaint but may refuse to consider the complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.], except that the identity of the complainant must remain confidential upon request by the complainant and until the complainant waives that confidentiality.~~

2. If the Executive Director or his or her designee determines that a complaint filed with the Board relates to any matter within the jurisdiction of another regulatory body in this title or chapter 437 of NRS, the Executive Director shall refer the complaint to the that regulatory body.

3. The provisions of subsection 2 do not prohibit the Executive Director or his or her designee from investigating a complaint which relates to any matter within the jurisdiction of the Board or from notifying the Board of that matter for further consideration by the Board if deemed necessary by the Board after an investigation.

4. Any member, employee, contractor or officer of the Board is immune from any civil liability for any decision made or action taken in good faith and without malicious intent in carrying out the provisions of this section.

Sec. 48. ~~NRS 636.315 is hereby amended to read as follows:~~

~~636.315 1. Except as otherwise provided in NRS 636.338, as soon as practicable after the filing of a complaint, the Board shall notify the licensee against whom the complaint is filed and fix a date for its *initial* review of the complaint. If the Board receives a report pursuant to subsection 5 of NRS 228.420, a hearing must be held within 30 days after receiving the report. [The licensee must be allowed a reasonable amount of time to respond to the allegations of the complaint.] The Executive Director shall notify the licensee of the time, date and place fixed for the Board's *initial* review of the complaint.~~

~~2. After reviewing the complaint, the Board shall dismiss the complaint or file a formal charge against the licensee. If a formal charge is filed, the Executive Director shall prepare the charge in accordance with the Board's regulations and send a copy to the licensee. The licensee must be allowed a reasonable amount of time to file a response to the charge.~~

~~3. Within a reasonable time after the Executive Director sends a copy of the charge to the licensee, the Board shall fix the time, date and place for a hearing and the Executive Director shall notify the licensee thereof. *The licensee must be allowed a reasonable amount of time to respond to the complaint.*~~

~~4. The Board shall retain all complaints received by the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.] (Deleted by amendment.)~~

Sec. 48.3. NRS 636.320 is hereby amended to read as follows:

636.320 ~~[The]~~ Any disciplinary hearing of a formal charge relating to an alleged ground for disciplinary action set forth in NRS 636.295 must be conducted ~~[publicly]~~ by the Board. The licensee against whom the charge is filed

1 ~~must be accorded the right to appear in person and by legal counsel, and given~~
 2 ~~adequate opportunity to confront the witnesses against him or her, to testify and~~
 3 ~~introduce the testimony of witnesses in his or her behalf, and to submit argument~~
 4 ~~and brief in person or by counsel.] in accordance with the provisions of chapters~~
 5 ~~233B, 622 and 622A of NRS.~~

6 **Sec. 48.6. NRS 636.325 is hereby amended to read as follows:**

7 636.325 1. ~~[Upon conclusion of the hearing, or waiver thereof by the person~~
 8 ~~against whom the charge is filed, the Board shall make and announce its decision.]~~
 9 ~~If the Board [determines that the allegations included in the charge are true,] finds~~
 10 ~~by a preponderance of the evidence that a person has engaged in one or more~~
 11 ~~grounds for disciplinary action set forth in NRS 636.295, it may take any one or~~
 12 ~~more of the following actions:~~

13 (a) ~~Publicly reprimand the licensee [;] and impose any terms or conditions~~
 14 ~~deemed necessary by the Board;~~

15 (b) ~~Place the licensee on probation for a specified or unspecified period [;] and~~
 16 ~~impose any conditions deemed necessary by the Board;~~

17 (c) ~~Suspend the [licensee from practice for a specified or unspecified period;]~~
 18 ~~license of the person for not more than 1 year and impose any terms or~~
 19 ~~conditions deemed necessary by the Board;~~

20 (d) ~~Revoke the [licensee's] license [; or] of the person and impose any terms~~
 21 ~~or conditions for reinstatement of the license deemed necessary by the Board;~~

22 (e) ~~Impose an administrative fine pursuant to the provisions of NRS 636.420 [;~~
 23 ~~The Board may, in connection with a reprimand, probation or suspension,~~
 24 ~~impose such other terms or conditions as it deems necessary.];~~

25 (f) ~~Limit the person's practice of optometry;~~

26 (g) ~~Suspend the enforcement of any penalty by placing the person on~~
 27 ~~probation, which the Board may revoke if the person fails to comply with any~~
 28 ~~condition of probation imposed by the Board;~~

29 (h) ~~Require the person to submit to the supervision of or counseling or~~
 30 ~~treatment by a person designated by the Board, and the person must be~~
 31 ~~responsible for any expense incurred for providing those services;~~

32 (i) ~~Impose and modify any conditions of probation for the protection of the~~
 33 ~~public or the rehabilitation of the person;~~

34 (j) ~~Require the person to pay for any costs of remediation or restitution; or~~

35 (k) ~~Take any combination of the actions specified in paragraphs (a) to (i),~~
 36 ~~inclusive.~~

37 2. ~~[If the Board determines that the allegations included in the charge are false~~
 38 ~~or do not warrant disciplinary action, it shall dismiss the charge.~~

39 ~~3.] The Board shall not issue a private reprimand.~~

40 ~~[4.] 3. An order that imposes discipline and the findings of fact and~~
 41 ~~conclusions of law supporting that order are public records.~~

42 **Sec. 48.9. NRS 636.337 is hereby amended to read as follows:**

43 636.337 1. Any disciplinary action taken by a hearing officer or panel
 44 pursuant to NRS 636.110 is subject to the same procedural requirements which
 45 apply to disciplinary actions taken by the Board, and the officer or panel has those
 46 powers and duties given to the Board in relation thereto.

47 2. A decision of the hearing officer or panel relating to the imposition of an
 48 administrative fine or penalty is a final decision in a contested case. ~~[Any party~~
 49 ~~aggrieved by a decision of the officer or panel to revoke or suspend a license may~~
 50 ~~appeal that decision to the Board.]~~

51 **Sec. 49. NRS 636.350 is hereby amended to read as follows:**

52 636.350 1. An optometrist shall not ~~[practice optometry, be employed by~~
 53 ~~or] own all or any portion of an optometry practice~~ under an assumed or fictitious

1 name unless the optometrist has been issued a certificate of registration by the
2 Board to practice optometry under ~~an~~ the assumed or fictitious name ~~and at a~~
3 *specific location.*

4 2. An optometrist who applies for a certificate of registration to *own all or*
5 *any portion of an optometry* practice ~~optometry~~ under an assumed or fictitious
6 name must submit to the Board an application on a form provided by the Board.
7 *The application must be accompanied by proof satisfactory to the Board that the*
8 *assumed or fictitious name meets the requirements of chapter 602 of NRS and*
9 *has been registered or otherwise approved by any appropriate governmental*
10 *entity, including, without limitation, any incorporated city or unincorporated*
11 *town in which the optometrist practices, if the registration or other approval is*
12 *required by the governmental entity.*

13 3. Each optometrist who is issued a certificate of registration pursuant to this
14 section shall:

15 (a) Comply with the provisions of chapter 602 of NRS; ~~and~~

16 (b) Display or cause to be displayed near the entrance of his or her business the
17 full name of the optometrist and the words or letters that designate him or her as an
18 optometrist ~~and~~; *and*

19 *(c) Display or cause to be displayed near the entrance of his or her business*
20 *the full name of any optometrist who regularly provides optometric services at the*
21 *business and the words or letters that designate him or her as an optometrist.*

22 4. The Board shall adopt regulations that prescribe the requirements for the
23 issuance of a certificate of registration to practice optometry under an assumed or
24 fictitious name.

25 5. As used in this section, "assumed or fictitious name" means a name ~~that is~~
26 ~~not the real~~ *other than the* name of ~~each person who owns an interest in a~~
27 ~~business~~ *the optometrist printed on his or her license to practice optometry.*

28 Sec. 50. NRS 636.355 is hereby amended to read as follows:

29 636.355 A licensee shall not ~~be entitled to~~ lend, sell, or otherwise ~~dispose~~
30 ~~or~~ permit the unauthorized use of his or her license or current renewal card.

31 Sec. 51. NRS 636.365 is hereby amended to read as follows:

32 636.365 The Board or the Executive Director may issue a duplicate license
33 and renewal card *for each location at which a licensee practices optometry*, if ~~the~~
34 *the* licensee maintains more than one place of practice.

35 Sec. 52. NRS 636.370 is hereby amended to read as follows:

36 636.370 1. A person who has been issued an initial license to practice
37 optometry in this State or who is re-establishing a practice in this State shall, before
38 commencing the practice, notify the Executive Director, in writing, of the location
39 or locations where the person intends to practice.

40 2. A licensee shall notify the Executive Director in writing before changing
41 the location of his or her practice ~~and~~ *or establishing an additional location to*
42 *practice optometry.*

43 Sec. 53. NRS 636.372 is hereby amended to read as follows:

44 636.372 1. ~~An~~ *Except as otherwise provided in subsection 4, an*
45 optometrist may enter into an agreement with a person who is not licensed pursuant
46 to the provisions of this chapter for the leasing of a building or a part thereof for use
47 in his or her practice. The lease may contain a provision which requires that the rent
48 must be based on a percentage of the revenue earned by the optometrist in his or her
49 practice if the total amount of rent paid for the building or part thereof does not
50 exceed its fair rental value, including any furniture, fixtures or equipment therein.

51 2. An optometrist who enters into such a lease with a physician may locate his
52 or her office in the same place of business as the physician without a physical
53 separation between the office and the place of business.

1 3. The Board may adopt regulations prescribing the requirements for such
2 leases. The regulations must ensure the quality of optometric care and the practice
3 of optometry without restricting competition or the commercial practice of
4 optometry.

5 4. *An optometrist shall not enter into a lease pursuant to this section unless,*
6 *during the term of the lease, the optometrist maintains exclusive access to, and*
7 *control and ownership of, the medical records of each patient of the optometrist.*

8 **Sec. 53.5.** NRS 636.373 is hereby amended to read as follows:

9 636.373 1. An optometrist may form an association or other business
10 relationship with a physician to provide their respective services to patients.

11 2. If such an association or business relationship is formed, the optometrist
12 may:

13 (a) Locate his or her office in the same place of business as the physician
14 without a physical separation between the office and the place of business.

15 (b) Authorize the physician to have access to any medical records in the
16 possession of the optometrist relating to a patient who is being treated by both the
17 optometrist and the physician.

18 (c) Advertise and promote the services provided by the association or business
19 consistent with the restrictions on advertising set forth in NRS 636.302.

20 3. A person shall not directly or indirectly supervise an optometrist within
21 the scope of his or her practice of optometry unless the person is licensed to
22 practice optometry pursuant to this chapter.

23 4. A person, including an officer, employee or agent of any commercial or
24 mercantile establishment, shall not directly or indirectly control, dictate or
25 influence the professional judgment of the practice of optometry by a licensed
26 optometrist, unless the person is licensed to practice optometry pursuant to this
27 chapter.

28 5. This section does not authorize an optometrist to employ or be employed
29 by a physician.

30 **Sec. 54.** NRS 636.374 is hereby amended to read as follows:

31 636.374 An optometrist may, based upon the individual needs of a particular
32 patient, collaborate with an ophthalmologist for the provision of care to the patient,
33 for a fixed fee, regarding one or more surgical procedures if:

34 1. The collaborating parties prepare and maintain in their respective medical
35 records regarding the patient, written documentation of each procedure and other
36 service performed by each collaborating party which includes the date each
37 procedure and other service is performed;

38 2. The fixed fee is divided between the collaborating parties in proportion to
39 the services personally performed by each of them;

40 3. The collaborating parties agree that the collaborating optometrist will refer
41 the patient back to the collaborating ophthalmologist or, if the collaborating
42 ophthalmologist is not available, another ophthalmologist designated by the
43 collaborating ophthalmologist to provide care to the patient if the medical needs of
44 the patient necessitate the provision of care by an ophthalmologist; and

45 4. The collaborating parties provide to the patient and maintain in their
46 respective medical records regarding the patient, a written document, signed by
47 each of the collaborating parties and the patient, containing:

48 (a) The name, business address and telephone number of each of the
49 collaborating parties;

50 (b) The amount of the fixed fee for the procedures and services;

51 (c) The proportion of that fee to be received by each collaborating party;

(d) A statement, signed by the patient and a witness who is not one of the collaborating parties, that the patient voluntarily, knowingly and willingly desires the performance of the postoperative care by the collaborating optometrist;

(e) A statement that the patient is entitled to return to the collaborating ophthalmologist for postoperative care at any time after the surgery; and

(f) A statement which:

(1) Indicates that the practice of optometry *is regulated by the Nevada State Board of Optometry* and *the practice of ophthalmology* ~~are respectively~~ *is* regulated by the ~~Nevada State Board of Optometry and the~~ Board of Medical Examiners ~~or the State Board of Osteopathic Medicine, as applicable;~~ and

(2) Contains the address and telephone number of each of those Boards.

Sec. 55. NRS 636.375 is hereby amended to read as follows:

636.375 1. Service of process made under this chapter must be made by one of the following methods:

(a) Sending the process to be served to the person by certified mail at his or her last known address as indicated in the records of the Board; or

(b) Personal delivery of the document to be served upon the person.

2. Service of process made under this chapter shall be deemed complete when a true and correct copy of the document, properly addressed and stamped, is deposited in the United States mail pursuant to paragraph (a) of subsection 1, or when personal delivery is completed pursuant to paragraph (b) of subsection 1.

3. Any notice which is not required to be ~~given by the Board or the Executive Director to a licensee~~ served in accordance with subsection 1 or 2 may be transmitted by ~~ordinary~~ :

~~1. Ordinary first-class, certified or registered~~

(a) First-class mail, postage prepaid, addressed to the licensee at the location listed by the ~~Executive Director for that~~ licensee ~~on his or her most recent change of address form or application for the renewal of his or her license~~ or the last known address as indicated in the records of the Board for any other person;

(b) Electronic mail to the address for electronic mail most recently provided by the licensee person to the Board; or

~~3. Facsimile machine to the number most recently provided by the licensee person to the Board.~~

Sec. 56. NRS 636.382 is hereby amended to read as follows:

636.382 ~~1. No~~ Any licensed optometrist may administer topical *diagnostic* ophthalmic ~~pharmaceutical~~ agents . ~~unless the optometrist has received certification from the Board authorizing him or her to do so.~~

~~2. The Board shall adopt regulations prescribing the diagnostic uses to which the agents enumerated in subsection 3 may be put, the manner in which such agents may be used, and the qualifications and requirements for such certification which must include:~~

~~(a) A valid license to practice optometry in this State;~~

~~(b) Satisfactory completion of a curriculum approved by the Board, which must include general and ocular pharmacology, at an institution approved by the Board and accredited by a regional or professional accrediting organization and recognized or approved by the Council on Post-Secondary Accreditation, the Northwest Accreditation Association or the United States Department of Education; and~~

~~(c) Successful completion of an appropriate examination approved and administered by the Board.~~

1 — 3. The following topical ophthalmic pharmaceutical agents may be used for
 2 diagnostic purposes by an optometrist who has been authorized by the Board to do
 3 so:

- 4 — (a) Mydriatics;
- 5 — (b) Cycloplegics;
- 6 — (c) Topical anesthetics; and
- 7 — (d) Miotics.

8 **Sec. 57.** NRS 636.387 is hereby amended to read as follows:

9 636.387 1. The form for any prescription which is issued for an ophthalmic
 10 lens by an optometrist in this State must contain lines or boxes in substantially the
 11 following form:

12
 13 Approved for contact lenses.....

14 Not approved for contact lenses.....

15 — 2. The prescribing optometrist shall mark or check one of the lines or boxes
 16 required by subsection 1 each time such a prescription is issued by the optometrist.

17 — 3. If the prescription is for a contact lens, the form must set forth the
 18 expiration date of the prescription, the number of refills, *contact lenses* approved
 19 for the patient and such other information as is necessary for the prescription to be
 20 filled properly. *A prescription for spectacle lenses must not be construed to be*
 21 *approved for or converted to a prescription for contact lenses unless contact*
 22 *lenses are expressly approved in writing on the prescription by the prescribing*
 23 *optometrist.*

24 [4.] 2. The initial fitting of a contact lens must be performed by an
 25 ophthalmologist or optometrist licensed in this State.

26 [5.] 3. As used in this section, "initial fitting" means measuring the health,
 27 integrity and refractive error of the eye to determine whether contact lenses may be
 28 approved pursuant to subsection 1. *are appropriate for the patient.*

29 **Sec. 57.5.** NRS 636.407 is hereby amended to read as follows:

30 636.407 The Board may cause appropriate legal action to be taken in the
 31 district court of any county to secure an injunction or order restraining the
 32 unauthorized practice of optometry. *An injunction may be issued pursuant to this*
 33 *section without proof of actual damage sustained by a person and does not relieve*
 34 *a person from any criminal prosecution for any unauthorized practice of*
 35 *optometry.*

36 **Sec. 58.** NRS 636.410 is hereby amended to read as follows:

37 636.410 A violation of this chapter shall constitute a gross misdemeanor and
 38 shall be punishable as such. ~~unless a greater penalty is provided pursuant to NRS~~
 39 ~~200.830 or 200.840.~~

40 **Sec. 59.** NRS 636.420 is hereby amended to read as follows:

41 636.420 ~~Any~~ *After providing notice and a hearing pursuant to chapter*
 42 *622A of NRS, the Board may impose an administrative fine of not more than*
 43 *\$5,000 for each violation against a person licensed under this chapter who*
 44 *violates any provision of this chapter or any regulation of the Board relating to the*
 45 *practice of optometry is liable to the Board for an administrative fine of not less*
 46 *than \$100 or more than \$5,000 for each violation, engages in any conduct*
 47 *constituting grounds for disciplinary action set forth in NRS 636.295.*

48 **Sec. 60.** NRS 639.0125 is hereby amended to read as follows:

49 639.0125 "Practitioner" means:

50 1. A physician, dentist, veterinarian or podiatric physician who holds a license
 51 to practice his or her profession in this State;

2. A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this State;

3. An advanced practice registered nurse who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;

4. A physician assistant who:

(a) Holds a license issued by the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;

5. A physician assistant who:

(a) Holds a license issued by the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

6. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~{therapeutic}~~ pharmaceutical agents within the scope of his or her certification.

Sec. 61. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his or her profession in this State and is registered pursuant to this chapter.

2. An advanced practice registered nurse who holds a certificate from the State Board of Pharmacy authorizing him or her to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he or she possesses or administers sodium pentobarbital pursuant to his or her license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of NRS.

6. A physician assistant who:

(a) Holds a license from the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~{therapeutic}~~ pharmaceutical agents within the scope of his or her certification.

Sec. 62. NRS 454.00958 is hereby amended to read as follows:

454.00958 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a valid license to practice his or her profession in this State.

2. A pharmacy, hospital or other institution licensed or registered to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice in this State.

3. When relating to the prescription of poisons, dangerous drugs and devices:

(a) An advanced practice registered nurse who holds a certificate from the State Board of Pharmacy permitting him or her so to prescribe; or

(b) A physician assistant who holds a license from the Board of Medical Examiners and a certificate from the State Board of Pharmacy permitting him or her so to prescribe.

4. An optometrist who is certified to prescribe and administer ~~{dangerous drugs}~~ *pharmaceutical agents* pursuant to NRS 636.288 when the optometrist prescribes or administers dangerous drugs which are within the scope of his or her certification.

Sec. 63. Notwithstanding the amendatory provisions of:

1. Section 20 of this act, the schedule of fees established by the Nevada State Board of Optometry pursuant to NRS 636.143 remains in effect until the Board establishes a revised schedule of fees pursuant to NRS 636.143, as amended by section 20 of this act.

2. Section 27 of this act, a license to practice optometry executed pursuant to NRS 636.215 remains in effect for the period for which the license was issued, if the person to whom the license was issued remains eligible to hold the license during that period.

3. Section 36 of this act, any regulations adopted by the Nevada State Board of Optometry prescribing the requirements for certification to administer and prescribe a therapeutic pharmaceutical agent pursuant to NRS 636.287 remain in effect until the Board amends the regulations in accordance with NRS 636.287, as amended by section 36 of this act.

4. Section 37 of this act, a certificate to administer or prescribe a therapeutic pharmaceutical agent issued in accordance with the provisions of NRS 636.288 remains in effect for the period for which the certificate was issued, if the person to whom the certificate was issued otherwise remains eligible to hold the certificate during that period.

5. Section 40 of this act, any regulations adopted by the Nevada State Board of Optometry which prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2893 remain in effect until the Board adopts regulations in accordance with NRS 636.2893, as amended by section 41 of this act.

Sec. 64. NRS 636.024, 636.160, 636.175, 636.195, 636.200, 636.220, ~~636.296, 636.315, 636.330, 636.335, 636.336, 636.341 and 636.385~~ are hereby repealed.

Sec. 65. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2019, for all other purposes.

LEADLINES OF REPEALED SECTIONS

636.024 "Therapeutic pharmaceutical agent" defined.

636.160 Application for examination.

- 636.175 Equipment required for examination.
- 636.195 Request for reexamination.
- 636.200 Scope of reexamination.
- 636.220 Licenses: Issuance.
- ~~636.296 Inspection of premises by Board.~~
- 636.315 Procedure following filing of complaint; retention of complaints.
- 636.330 Application for rehearing.
- 636.335 Rehearing: Notice to licensee; conduct; decision.
- 636.336 Board to cooperate with other agencies investigating persons.
- 636.341 Practicing or offering to practice without license: Reporting requirements of Board.
- 636.385 Use of and payment for optometric services by administrative agencies and public schools.

MEETING MATERIALS FOR AGENDA ITEM 5

Financial Reports and Budgeting.

- A. Consideration and approval of 2018 Audit Report.
- B. Consideration and approval of 2018-2019 Budget Report to date.
- C. Consideration and approval of proposed FY 2019-2020 Budget.

May 21, 2019

NEVADA STATE BOARD OF OPTOMETRY
FINANCIAL STATEMENTS
JUNE 30, 2018

FINANCIAL STATEMENTS

AND ANALYSIS

17

DRAFT

INDEPENDENT AUDITOR'S REPORT

To the Board Members of
Nevada State Board of Optometry
Carson City, Nevada

We have audited the accompanying financial statements of the governmental activities of the Nevada State Board of Optometry as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise the Board's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risk of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

NEVADA STATE BOARD OF OPTOMETRY MANAGEMENT'S DISCUSSION AND ANALYSIS

This section of the Nevada State Board of Optometry annual financial report presents our discussion and analysis of the Board's financial performance during the fiscal year that ended June 30, 2018. Please read it in conjunction with the Board's financial statements, which immediately follow this section.

Financial Highlights

- Revenue for the fiscal year ended June 30, 2018 was \$235,267 representing an increase of 16.13% over fiscal year ended June 30, 2017
- There was an increase in long-term liabilities of \$95,987 and an increase in pension expense of \$4,669 as a result of required adjustments under GASB 68 & 82.

Overview of Financial Statements

This discussion and analysis are intended to serve as an introduction to the Board's basic financial statements. The Board's basic financial statements comprise three components: 1) government-wide financial statements; 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Government-wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the Board's finances, in a manner similar to a private-sector business.

The statement of net assets presents information on all of the Board's assets and liabilities, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the Board is improving or deteriorating.

The statement of activities presents information showing how the Board's net position changed during the most recent fiscal year. All changes in net positions are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., earned but unused compensated absences).

The government-wide financial statements outline functions of the Board that are principally supported by license fees. The governmental activities of the Board include licensing and regulation of Optometrists and to accredit schools of optometry in the State of Nevada. The government-wide financial statements can be found on pages 8 and 9 of this report.

Fund Financial Statements

A fund is a group of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The Board uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The Board uses only one governmental fund.

Governmental Funds

Governmental funds are used to account for essentially the same functions reported as government activities in the governmental-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the Board's near-term financing requirements.

The Condensed Statements of Activities is as follows:

	06/30/2018	06/30/2017
REVENUE		
Program revenue-services	\$ 234,276	\$ 201,833
General revenue-investments	981	742
Total Revenue	<u>235,257</u>	<u>202,575</u>
EXPENSES		
Optometry Board operations	<u>303,159</u>	<u>216,171</u>
Excess of Revenue over Expenditures	<u>(67,902)</u>	<u>(13,596)</u>
CHANGE IN NET POSITION	<u>\$ (67,902)</u>	<u>\$ (13,596)</u>

Government-wide Financial Analysis

Net assets may serve over time as a useful indicator of a government's financial position. In the case of the Board, assets exceeded liabilities by \$241,856 and \$307,626 as of June 30, 2018 and 2017, respectively.

Changes in Net Assets

The Board's total revenues for the fiscal year ended June 30, 2018 were \$235,257. The total costs of all programs and services were \$303,159. The decrease in net revenue is due to the hiring of an administrative assistant and the increased salary and benefits associated with that position.

Financial Analysis of the Board's Fund

As noted earlier, the Board uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental Funds

The focus of the Board's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the Board's financing requirements. In particular, unreserved fund balance may serve as a useful measure of the Board's net resources available for spending at the end of the fiscal year.

The financial performance of the Board as a whole is reflected in its governmental funds. As the Board completed the year, its governmental funds reported a balance of \$363,326.

Budgetary Highlights

The Board prepares its budget prior to the start of each year. A comparison of this budget with actual results is provided in the Statement of Revenue and Expenditures - Budget and Actual.

Capital Assets and Debt Administration

Fixed assets decreased by \$1,447 during the year due to depreciation expense recorded net of accumulated depreciation. In government-wide financial statements, these assets are reflected at their historical costs less accumulated depreciation. Additional information can be found in the footnotes to these financial statements.

BASIC FINANCIAL STATEMENTS

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NEVADA STATE BOARD OF OPTOMETRY
Statement of Activities and Governmental Fund Revenue, Expenditures
and Changes in Fund Balance
For the Year Ended June 30, 2018

	Government Fund	Adjustments (Note 9)	Statement of Activities
EXPENDITURES/EXPENSES			
Optometry board operations	\$ 303,460	\$ (301)	\$ 303,159
Total Expenditures	303,460	(301)	303,159
PROGRAM REVENUE			
Charges for services	234,276	-	234,276
Net Program Revenue	(69,184)	301	(68,883)
GENERAL REVENUE			
Interest income	981	-	981
Excess of Revenue over Expenditures	(68,203)	68,203	
Change in Net Position		(67,902)	(67,902)
FUND BALANCE/NET POSITION			
Fund Balance/Net Position, June 30, 2017	428,299	(120,673)	307,626
Prior Period Adjustment (Note 7 & 10)	3,230	(1,098)	2,132
Fund Balance/Net Position, June 30, 2017 (Restated)	431,529	(121,771)	309,758
Fund Balance/Net Position, June 30, 2018	\$ 363,326	\$ (121,470)	\$ 241,856

See Accompanying Notes to Financial Statements

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2018

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Basis of Accounting

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenue is recognized as soon as they are both measurable and available. "Measurable" means the amount of the transaction can be determined and "available" means collectable within the current period or soon enough thereafter to pay liabilities of the current period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. By provision of statute, the Board administers its licensing registration annually. Revenue derived from renewals is recognized ratably over the license term.

The Board has only governmental fund types.

Fund Accounting

Under chapter 636.110 of the Nevada Revised Statutes, the general fund of the Board is used to account for the proceeds of specific revenue sources that are legally restricted to expenditures to be used solely for the Board's benefit. According to statute, any money deposited to Nevada State Board of Optometry does not revert to the State of Nevada's general fund. The net assets of the general fund are restricted solely to be used by the Board to meet its obligation of licensing and regulating the practice of optometry in the State of Nevada.

In the fund financial statements, fund balances for the governmental fund are reported in classifications that comprise a hierarchy based primarily on how amounts can be spent. These include "non-spendable" which are not expected to be converted to cash, such as inventory or prepaid items, "restricted" by conditions of law, regulation grants or contract with external parties, "committed" which arise from acts of the Board, "assigned" which reflect an intent by management of the Board or "unassigned" which is the residual amount.

The Board first utilizes restricted resources to finance qualifying activities then unrestricted resources, as they are needed. In the governmental environment, resources are often assigned or committed to specific purposes, indicating that those amounts are not considered available for general operations. In contrast to restricted amounts, these types of constraints are internal and can be removed or modified. Therefore, assignments and commitments are not presented in the statements of net position.

The Board has adopted GASB Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position*. **The Board has no amounts classified as deferred outflows or inflows of resources at June 30, 2018, other than those amounts required to be reported as such under GASB 68.** Accordingly, there is no material impact to the Board's financial position as a result of this pronouncement. However, equity is now classified as net position and displayed in three different components. These include "Net invested in capital assets" which consist of capital assets, net of accumulated depreciation and any related debt; "Restricted net position which consists of net position with constraints placed on their use either by (1) external groups such as creditors, grantors, contributors, or laws and regulations of other governments; or (2) law through constitutional provisions or enabling legislation; or "Unrestricted net position which is a net position that is neither classified as "invested in capital assets" nor as "restricted."

IRS ?
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NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2018

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Risk Management

The Board collects licensing fees in the State of Nevada. Financial instruments which potentially subject the Board to concentrations of credit risk consist primarily of cash equivalents. The Board has not experienced any significant losses in such accounts, nor does the Board believe it is exposed to any significant credit risk.

The Board has bank accounts, which are insured by the Federal Deposit Insurance Corporation up to \$250,000. On June 30, 2018, the bank balances were within federally insured limits.

Subsequent Events

In preparing these financial statements, the Board has evaluated events and transactions for potential recognition or disclosure through May 6, 2019, the date the financial statements were available to be issued. Subsequent events after that date have not been evaluated.

Capital Assets

Capital assets, which include furniture, fixtures and equipment are reported in the net asset column in the government-wide financial statements. Capital assets are defined by the Board as assets with an initial, individual cost of \$1,000 and an estimated useful life of at least one year. Such assets are recorded at historical cost. Donated assets are recorded at estimated fair market value at the date of donation. Expenditures for minor replacements, maintenance, and repairs are charged to expense as incurred. Depreciation is provided over the estimated useful lives of 5 years of the related capital assets using the straight-line method for financial statement purposes.

Under the modified accrual basis of accounting, acquisitions are considered expenditures in the year purchased.

Compensated Absences

The Board accrues a liability for compensated absences that meet all of the following criteria:

1. The Board's obligations relating to employee's rights to receive compensation for future absences is attributable to services already rendered;
2. The obligation relates to rights that vest or accumulate;
3. Payment of compensation is probable; and
4. The amount can be reasonably estimated.

Vacation and sick leave may be accumulated by employees up to certain maximums and is payable upon retirement or termination. No liability is reported for unpaid accumulated vacation or sick leave on the general fund balance sheet as no amounts were paid within 60 days subsequent to year end. Accumulated unused vacation and sick leave earned as of June 30, 2018, is reflected in the statement of net position.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2018

NOTE 7 - DEFINED BENEFIT PENSION PLAN

General Information about the Pension Plan

Plan Description

The Public Employees' Retirement System of Nevada (PERS or the System) administers a cost-sharing, multiple-employer, defined benefit public employees' retirement system which includes both Regular and Police/Fire members. The System was established by the Nevada Legislature in 1947, effective July 1, 1948. The System is administered to provide a reasonable base income to qualified employees who have been employed by a public employer and whose earnings capacities have been removed or substantially impaired by age or disability.

Benefits Provided

Benefits, as required by the Nevada Revised Statutes (NRS or statute), are determined by the number of years of accredited service at time of retirement and the member's highest average compensation in any 36 consecutive months with special provisions for members entering the System on or after January 1, 2010 and July 1, 2015. Benefit payments to which participants or their beneficiaries may be entitled under the plan include pension benefits, disability benefits, and survivor benefits.

Monthly benefit allowances for members are computed as 2.5% of average compensation for each accredited year of service prior to July 1, 2001. For service earned on and after July 1, 2001, this factor is 2.67% of average compensation. For members entering the System on or after January 1, 2010, there is a 2.5% service time factor and for regular members entering the System on or after July 1, 2015, there is a 2.25% factor. The System offers several alternatives to the unmodified service retirement allowance which, in general, allow the retired employee to accept a reduced service retirement allowance payable monthly during his or her lifetime and various optional monthly payments to a named beneficiary after his or her death. Post-retirement increases are provided by authority of NRS 286.575 - .579.

Vesting

Regular members entering the System prior to January 1, 2010, are eligible for retirement at age 65 with five years of service, at age 60 with 10 years of service, or at any age with thirty years of service. Regular members entering the System on or after January 1, 2010, are eligible for retirement at age 65 with five years of service, or age 62 with 10 years of service, or any age with 30 years of service. Regular members who entered the System on or after July 1, 2015, are eligible for retirement at age 65 with 5 years of service, or at age 62 with 10 years of service or at age 55 with 30 years of service or any age with 33 1/3 years of service.

The normal ceiling limitation on monthly benefits allowances is 75% of average compensation. However, a member who has an effective date of membership before July 1, 1985 is entitled to a benefit of up to 90% of average compensation. Both Regular and Police/Fire members become fully vested as to benefits upon completion of five years of service.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2018

NOTE 7 - DEFINED BENEFIT PENSION PLAN (CONTINUED)

Pension Liabilities, Pension Expense, Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions (Continued)

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual experience	\$	\$ 13,503
Net difference between projected and actual earnings on pension plan investments	1,336	-
Change in assumptions	13,652	-
Changes in proportion	88,951	38,732
Board contributions subsequent to the measurement date	33,470	-
	<u>\$ 137,409</u>	<u>\$ 52,235</u>

Deferred outflows/(inflows) of resources excluding the changed in proportion and differences between actual contributions and proportionate share of contributions will be recognized as follows:

Year Ending June 30	
2019	\$ (3,697)
2020	4,786
2021	1,236
2022	(3,370)
2023	1,742
2024 and later	790
	<u>\$ 1,487</u>

The net difference between projected and actual investment earnings on pension plan investments will be recognized over five years, all the other above deferred outflows and deferred inflows will be recognized over the average expected remaining service lives, which was 6.39 years for the measurement period ending June 30, 2017.

Actuarial Assumptions

The System's net pension liability was measured as of June 30, 2017, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The total pension liability was determined using the following actuarial assumptions, applied to all periods included in the measurement:

Inflation rate	2.75%
Payroll growth	5.00%, including inflation
Investment rate of return	7.50%
Productivity pay increase	0.50%
Projected salary increases	Regular: 4.25% to 9.15%, depending on service
	Police/Fire: 4.55% to 13.9%, depending on service
	Rates include all inflation and productivity increases
Consumer price index	2.75%
Other assumptions	Same as those used in the June 30, 2017 funding actuarial valuation

an average of 6.7%

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2018

NOTE 7 - DEFINED BENEFIT PENSION PLAN (CONTINUED)

Pension Liabilities, Pension Expense, Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions (Continued)

New Accounting Pronouncement

For the year ended June 30, 2017, the System adopted Governmental Accounting Standards Board (GASB) Statement No. 82, An Amendment of GASB No. 67, No. 68 and No. 73. This statement addresses classification of employer-paid contributions. This statement requires certain contribution payments made by the employer to be classified as member contributions. ~~This statement requires certain contribution payments made by the employer to be classified as member contributions.~~ Adoption of GASB No. 82 resulted in a reduction in the Board's June 30, 2017 Net Position of \$1,098.

6 repeat sentence

NOTE 8 - OTHER POST EMPLOYMENT BENEFITS

Public Employees Benefits Program of the State of Nevada

The employees of the Board are covered by the Public Employees Benefits Program of the State of Nevada (PEBP) a multiple employer, self-insurance trust fund. PEBP provides health insurance benefits for current and retired employees of the State of Nevada and other public employers. Chapter 287 of the Nevada Revised Statutes established the benefit provisions provided to the participants of PEBP. These benefit provisions may only be amended through legislation. The Nevada Public Employees Benefits Program issues a publicly available financial report that includes financial statements and required supplementary information for PEBP. That report may be obtained by writing the Nevada Public Employees Benefits Program, 901 South Stewart Street, Suite 1001, Carson City, Nevada 89701, or by calling (775) 684-7000.

Under the plan, the employee pays a portion of the health insurance and the employer contributes the balance. Employer payments for health insurance totaled \$28,533, \$12,100 and \$9,041 for the years ended June 30, 2018, 2017 and 2016, respectively. Retirement benefit costs are billed to the employer as they occur. Currently, the Board has no employees that fall under the retirement benefit provisions, so no amounts relating to post-employment benefits have been paid, nor are any due.

The Nevada Public Employees Deferred Compensation Program

The Board employees are now eligible to participate in the Nevada Public Employees Deferred Compensation Program. The Program, established in 1977, is a voluntary tax-deferred supplemental retirement plan (IRC 457(b)), which provides participants and their beneficiaries with a supplement to their other retirement savings. The Program operates solely in the interest of the plan participants and beneficiaries. As a voluntary, participant-directed plan, participants bear the ongoing responsibility for deciding the amount of current compensation to defer and the selection of investment allocation and options. There are no employer contributions. The amount of deferred compensation due to participant accounts by the Board as of June 30, 2018 was \$625.

REQUIRED SUPPLEMENTARY INFORMATION

NEVADA STATE BOARD OF OPTOMETRY
Schedules of Required Supplementary Information
For the Year Ended June 30, 2018

SCHEDULE OF THE BOARD'S PROPORTIONATE SHARE OF THE
NET PENSION LIABILITY
Nevada State Public Employees Retirement System

	6/30/2017	6/30/2016	6/30/2015	6/30/2014
Board's proportion of the net pension liability (asset)	0.00155%	0.00074%	0.00116%	0.00118%
Board's proportionate share of the net pension liability (asset)	\$ 205,782	\$ 99,946	\$ 132,758	\$ 122,979
Board's covered-employee payroll	\$ 67,440	\$ 66,737	\$ 43,820	\$ 94,257 ?
Board's proportionate share of the net pension liability (asset) as a percentage of its covered-employee payroll	305.13%	149.76%	302.96%	130.47% ?
Plan fiduciary net position as a percentage of the total pension liability	74.42%	72.23%	75.13%	76.31%

See Accompanying Notes to Financial Statements

REPORTS ON INTERNAL CONTROL AND COMPLIANCE

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The Board's Response to Findings

The Nevada State Board of Optometry's response to the findings identified in our audit is described in the accompanying schedule of findings and questioned costs. The Board's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Carson City, Nevada
May 6, 2019

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NEVADA STATE BOARD OF OPTOMETRY
Schedule of Prior Findings and Questioned Costs
For the Year Ended June 30, 2018

FINDINGS – FINANCIAL STATEMENTS AUDIT
SIGNIFICANT DEFICIENCIES
INTERNAL CONTROL OVER FINANCIAL REPORTING

FINDING NO. 2017-1

Statement of Condition: During the course of the audit several adjustments were proposed to the financial statements. The effect of these adjustments were material to the financial statements taken as a whole.

Criteria: NRS 218G-400 requires that the Board's financial statements be prepared in accordance with generally accepted principles of accounting for special revenue funds.

Effect of Condition: Failure to reconcile the financial statements on a monthly, quarterly, or annual basis, results in inaccurate information being provided to those charged with governance. Further the financial statements are not prepared in accordance with generally accepted principles of accounting for special revenue funds. This is a violation of NRS 218G.400.

Cause of Condition: The Board's management failed to perform reconciliations of significant accounts in a timely or accurate manner.

Recommendation: In order to make the decisions necessary to manage the Board, management should reconcile all accounts at least quarterly.

Comments: The Board agrees with the finding and will endeavor to reconcile all significant accounts at least quarterly.

To the Nevada State Board of Optometry

We have audited the basic financial statements of the Nevada State Board of Optometry for the year ended June 30, 2018 and have issued our report thereon dated May 6, 2019. Professional standards require that we provide you with the following information related to our audit.

Our Responsibility under U. S. Generally Accepted Auditing Standards

As stated in our engagement letter dated July 13, 2018, our responsibility, as described by professional standards, is to express opinions about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects in conformity with U. S. generally accepted accounting principles. Our audit of the financial statements does not relieve you or management of your responsibilities.

Other Information in Documents Containing Audited Financial Statements

Our responsibility for the other information in the Management's Discussion and Analysis which contains the Board's financial information and report does not extend beyond the financial information identified in the audit report. We do not have an obligation to perform any procedures to corroborate any of the other information contained in the Management's Discussion and Analysis. We did, however, read the information contained therein. As a result, nothing came to our attention that caused us to believe that such information, or its manner of presentation, is materially inconsistent with the information, or manner of its presentation appearing in the financial statements.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Nevada State Board of Optometry are described in the financial statements. GASB Statement No. 82, *Pension Issues - An Amendment of GASB Statements No. 67, No. 68 and No. 73* was adopted as of the beginning of the current period. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the financial statement was management's estimation of deferred revenue.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Legislative Counsel Bureau constituted a material weakness in compliance and was included in the schedule of findings and questioned costs.

This information is intended solely for the use of management and the Board and is not intended to be and should not be used by anyone other than these specified parties.

Carson City, Nevada
May 6, 2019

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Nevada State Board of Optometry
Adjusting Journal Entries

July 1, 2017 - June 30, 2018

Date	Reference	Account	Description	WP Reference	Debit	Credit	Net Income Effect
Adjusting Journal Entries							
06/30/18	AJE #2		To Record Beginning Balance Adjustment	SS-2			41.87
		1010	City National Bank Checking			1,630.00	
		6000	Interest Earned			41.87	
		1500	Furniture and Fixtures		29,924.50		
		1600	Accumulated Depreciation			25,907.78	
		1700	Prepaid Rent		1,080.00		
		1710	Prepaid Expenses		383.63		
		1720	Security Deposits		1,000.00		
		1800	Deferred Outflows of Resources		11,661.00		
		1850	Deferred Outflows - Contributions		27,604.17		
		2005	Payroll Liabilities		10,548.25		
		2025	Payroll Liabilities:Deferred Comp			1,850.00	
		2030	Payroll Liabilities:Federal Taxes (941/944)			8,270.66	
		2041	Payroll Liabilities:HSA			400.00	
		2042	Payroll Liabilities:Medicare		401.42		
		2043	Payroll Liabilities:NV UI Bond Obligation Assessme			198.31	
		2045	Payroll Liabilities:NV Unemployment Tax			2,498.71	
		2046	Payroll Liabilities:PEBP			10,272.16	
		2047	Payroll Liabilities:PERS			5,175.39	
		2710	Deferred Revenue			139,283.33	
		2720	Long-term Accrued Compensated Absences			9,848.90	
		2800	Deferred Inflows of Resources			54,160.00	
		2850	Net Pension Liability			99,946.00	
		3000	Opening Balance Equity		584,505.58		
		3200	Non-Spendable Fund Balance			4,016.72	
		3350	Spendable Assigned Fund Balance			303,608.72	
06/30/18	AJE #5		To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18	E-2			(1,224.54)
		2005	Payroll Liabilities		27,923.01		
		2025	Payroll Liabilities:Deferred Comp			5,375.00	
		2030	Payroll Liabilities:Federal Taxes (941/944)			29,344.77	
		2041	Payroll Liabilities:HSA			100.00	
		2042	Payroll Liabilities:Medicare		345.16		
		2043	Payroll Liabilities:NV UI Bond Obligation Assessme		198.31		
		2045	Payroll Liabilities:NV Unemployment Tax			5,271.16	

Nevada State Board of Optometry
Adjusting Journal Entries

July 1, 2017 - June 30, 2018

Date	Reference	Account	Description	WP Reference	Debit	Credit	Net Income Effect
		2046	Payroll Liabilities:PEBP		5,064.14		
		2047	Payroll Liabilities:PERS		8,711.13		
		2049	Payroll Liabilities:Vol Life & Dep Life Insurance			145.24	
		5120	Payroll- Health Ins, Medicare & PERS			5,509.61	
		5101	Payroll Expenses:Taxes		7,135.09		
		5102	Payroll Expenses:Wages		1,594.39		
		5230	Payroll Taxes			1,995.33	
		3350	Spendable Assigned Fund Balance			3,230.12	
06/30/18	AJE #6		To Adjust Compensated Absences to Actual at 06/30/18	CC-3			4,822.75
		2720	Long-term Accrued Compensated Absences		9,848.90		
		2220	Accrued Compensated Absences			3,431.76	
		5102	Payroll Expenses:Wages			4,822.75	
		2005	Payroll Liabilities			1,594.39	
06/30/18	AJE #9		To Adjust for GASB-68 Compliance	CC-4			(4,669.41)
		1800	Deferred Outflows of Resources		92,278.00		
		1850	Deferred Outflows - Contributions		5,865.75		
		2800	Deferred Inflows of Resources		1,925.00		
		2850	Net Pension Liability			105,836.00	
		5100	Payroll Expenses:Company Contributions:Retirement			33,469.92	
		5220	Retirement Benefits		23,152.00		
		5225	Deemed Member Contributions		14,987.33		
		3350	Spendable Assigned Fund Balance		1,097.84		
06/30/18	AJE#1		To record depreciation expense through 6/30/18	UV-1			(1,447.17)
		5400	Depreciation Expense		1,447.17		
		1600	Accumulated Depreciation			1,447.17	
06/30/18	AJE#3		To reverse prior year accrual of prepaid expense.	O			(383.63)
		1710	Prepaid Expenses			383.63	
		5040	Insurance- Liability		318.00		
		5041	Insurance- BOND		65.63		
06/30/18	AJE#4		To Record Adjustments Posted by Client After TB Import				(2,378.85)
		2005	Payroll Liabilities			21.86	

Nevada State Board of Optometry
Adjusting Journal Entries

July 1, 2017 - June 30, 2018

Date	Reference	Account	Description	WP Reference	Debit	Credit	Net Income Effect
		2030	Payroll Liabilities:Federal Taxes (941/944)			2,356.99	
		5230	Payroll Taxes		930.98		
		5320	Fines		1,460.39		
		6000	Interest Earned			12.52	
06/30/18	AJE#7		To account for prepaid expenses at 6/30/18	O			998.00
		1710	Prepaid Expenses		998.00		
		5040	Insurance- Liability			304.00	
		5041	Insurance- BOND			583.33	
		5140	Postage and delivery costs			110.67	
06/30/18	AJE#8		To reverse prior year checks posted in July that were recorded in prior year adjustment.	A-1			550.00
		1010	City National Bank Checking		1,630.00		
		1700	Prepaid Rent			1,080.00	
		5260	Accounting			250.00	
		5020	Board Pay, Travel & Per Diem			300.00	
06/30/18	AJE#10		To adjust deferred revenue for licenses renewed on 2/28/18 through 2/28/19.	CC-5			(17,566.67)
		2710	Deferred Revenue			17,566.67	
		4000	Fees- License Renewals		17,566.67		
06/30/18	AJE#11		To accrue accounts payable at 6/30/18	BB-1			(9,500.00)
		5260	Accounting		9,500.00		
		2050	Accounts Payable			9,500.00	
Totals for Adjusting Journal Entries					<u>901,151.44</u>	<u>901,151.44</u>	<u>(30,757.65)</u>
Report Totals					<u>901,151.44</u>	<u>901,151.44</u>	<u>(30,757.65)</u>

Journal Entry count = 11

**Nevada State Board of Optometry
Trial Balance Worksheet**

Account	Type	Description	06/30/17 Adjusted Balance	06/30/18 Unadjusted Balance	Adjusting JE Adjustments	06/30/18 Adjusted Balance
1010	A	City National Bank Checking	206,754.77	160,720.25		160,720.25
		AJE #2 To Record Beginning Balance Adjustment			(1,630.00)	
		AJE#8 To reverse prior year checks posted in July that were recorded in prior year adjustment.			1,630.00	
1020	A	Heritage Bank Savings	197,172.17	197,932.11		197,932.11
1030	A	Nevada State Bank Savings	192,780.08	192,975.08		192,975.08
1500	A	Furniture and Fixtures	29,924.50	0.00		29,924.50
		AJE #2 To Record Beginning Balance Adjustment			29,924.50	
1600	A	Accumulated Depreciation	(25,907.78)	0.00		(27,354.95)
		AJE #2 To Record Beginning Balance Adjustment			(25,907.78)	
		AJE#1 To record depreciation expense through 6/30/18			(1,447.17)	
1700	A	Prepaid Rent	1,080.00	0.00		0.00
		AJE #2 To Record Beginning Balance Adjustment			1,080.00	
		AJE#8 To reverse prior year checks posted in July that were recorded in prior year adjustment.			(1,080.00)	
1710	A	Prepaid Expenses	383.63	0.00		998.00
		AJE #2 To Record Beginning Balance Adjustment			383.63	
		AJE#3 To reverse prior year accrual of prepaid expense.			(383.63)	
		AJE#7 To account for prepaid expenses at 6/30/18			998.00	
1720	A	Security Deposits	1,000.00	0.00		1,000.00
		AJE #2 To Record Beginning Balance Adjustment			1,000.00	
1800	A	Deferred Outflows of Resources	11,661.00	0.00		103,939.00
		AJE #2 To Record Beginning Balance Adjustment			11,661.00	
		AJE #9 To Adjust for GASB-68 Compliance			92,278.00	
1850	A	Deferred Outflows - Contributions	27,604.17	0.00		33,469.92
		AJE #2 To Record Beginning Balance Adjustment			27,604.17	
		AJE #9 To Adjust for GASB-68 Compliance			5,865.75	
2005	L	Payroll Liabilities	0.00	(38,449.40)		(1,594.39)
		AJE #2 To Record Beginning Balance Adjustment			10,548.25	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			27,923.01	
		AJE #6 To Adjust Compensated Absences to Actual at 06/30/18			(1,594.39)	

**Nevada State Board of Optometry
Trial Balance Worksheet**

Account	Type	Description	06/30/17 Adjusted Balance	06/30/18 Unadjusted Balance	Adjusting JE Adjustments	06/30/18 Adjusted Balance
		AJE#4 To Record Adjustments Posted by Client After TB Import			(21.86)	
2025	L	Payroll Liabilities:Deferred Comp	(1,850.00)	6,600.00		(625.00)
		AJE #2 To Record Beginning Balance Adjustment			(1,850.00)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(5,375.00)	
2030	L	Payroll Liabilities:Federal Taxes (941/944)	(14,744.96)	30,904.28		(9,068.14)
		AJE #2 To Record Beginning Balance Adjustment			(8,270.66)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(29,344.77)	
		AJE#4 To Record Adjustments Posted by Client After TB Import			(2,356.99)	
2041	L	Payroll Liabilities:HSA	(300.00)	(100.00)		(600.00)
		AJE #2 To Record Beginning Balance Adjustment			(400.00)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(100.00)	
2042	L	Payroll Liabilities:Medicare	0.00	(746.58)		0.00
		AJE #2 To Record Beginning Balance Adjustment			401.42	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			345.16	
2043	L	Payroll Liabilities:NV UI Bond Obligation Assessme	(198.31)	0.00		0.00
		AJE #2 To Record Beginning Balance Adjustment			(198.31)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			198.31	
2045	L	Payroll Liabilities:NV Unemployment Tax	0.00	4,731.08		(3,038.79)
		AJE #2 To Record Beginning Balance Adjustment			(2,498.71)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(5,271.16)	
2046	L	Payroll Liabilities:PEBP	(11,190.48)	(367.30)		(5,575.32)
		AJE #2 To Record Beginning Balance Adjustment			(10,272.16)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			5,064.14	
2047	L	Payroll Liabilities:PERS	(3,305.12)	(6,910.34)		(3,374.60)
		AJE #2 To Record Beginning Balance Adjustment			(5,175.39)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			8,711.13	
2049	L	Payroll Liabilities:Vol Life & Dep Life Insurance	0.00	72.62		(72.62)
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(145.24)	
2050	L	Accounts Payable	0.00	0.00		(9,500.00)

**Nevada State Board of Optometry
Trial Balance Worksheet**

Account	Type	Description	06/30/17 Adjusted Balance	06/30/18 Unadjusted Balance	Adjusting JE Adjustments	06/30/18 Adjusted Balance
		AJE#11 To accrue accounts payable at 6/30/18			(9,500.00)	
2220	L	Accrued Compensated Absences	0.00	0.00		(3,431.76)
		AJE #6 To Adjust Compensated Absences to Actual at 06/30/18			(3,431.76)	
2710	L	Deferred Revenue	(139,283.33)	0.00		(156,850.00)
		AJE #2 To Record Beginning Balance Adjustment			(139,283.33)	
		AJE#10 To adjust deferred revenue for licenses renewed on 2/28/18 through 2/28/19.			(17,566.67)	
2720	L	Long-term Accrued Compensated Absences	(9,848.90)	0.00		0.00
		AJE #2 To Record Beginning Balance Adjustment			(9,848.90)	
		AJE #6 To Adjust Compensated Absences to Actual at 06/30/18			9,848.90	
2800	L	Deferred Inflows of Resources	(54,160.00)	0.00		(52,235.00)
		AJE #2 To Record Beginning Balance Adjustment			(54,160.00)	
		AJE #9 To Adjust for GASB-68 Compliance			1,925.00	
2850	L	Net Pension Liability	(99,946.00)	0.00		(205,782.00)
		AJE #2 To Record Beginning Balance Adjustment			(99,946.00)	
		AJE #9 To Adjust for GASB-68 Compliance			(105,836.00)	
3000	Q	Opening Balance Equity	0.00	(584,505.58)		0.00
		AJE #2 To Record Beginning Balance Adjustment			584,505.58	
3200	Q	Non-Spendable Fund Balance	(799.60)	0.00		(4,016.72)
		AJE #2 To Record Beginning Balance Adjustment			(4,016.72)	
3350	Q	Spendable Assigned Fund Balance	(320,422.87)	0.00		(305,741.00)
		AJE #2 To Record Beginning Balance Adjustment			(303,608.72)	
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(3,230.12)	
		AJE #9 To Adjust for GASB-68 Compliance			1,097.84	
4000	R	Fees- License Renewals	(175,736.92)	(168,660.06)		(151,093.39)
		AJE#10 To adjust deferred revenue for licenses renewed on 2/28/18 through 2/28/19.			17,566.67	
4005	R	Endorsement Application	0.00	(4,575.00)		(4,575.00)
4025	R	Fees- Cert/Add'l Location/Addr. Changes	(11,715.39)	(54,903.24)		(54,903.24)
4040	R	Application and Exam Fees	(14,355.96)	(11,250.00)		(11,250.00)
4071	R	Penalties - Discipline	0.00	(1,501.00)		(1,501.00)
4072	R	Penalties- Admin	0.00	(3,618.36)		(3,618.36)
4075	R	Refunds received	0.00	(403.22)		(403.22)
4080	R	Other	(25.01)	0.00		0.00
4085	R	Merchant Fee Income	0.00	(6,804.06)		(6,804.06)
4090	R	Miscellaneous Income	0.00	(3.01)		(3.01)

**Nevada State Board of Optometry
Trial Balance Worksheet**

Account	Type	Description	06/30/17 Adjusted Balance	06/30/18 Unadjusted Balance	Adjusting JE Adjustments	06/30/18 Adjusted Balance
4095	R	Sales of Product Income	0.00	(125.00)		(125.00)
5000	E	Advertising	51.96	0.00		0.00
5010	E	Bank Charges	75.06	346.30		346.30
5020	E	Board Pay, Travel & Per Diem	7,230.01	5,407.47		5,107.47
		AJE#8 To reverse prior year checks posted in July that were recorded in prior year adjustment.			(300.00)	
5025	E	Computer purchase incl. Software	50.00	194.95		194.95
5030	E	Dues & Subscriptions	900.00	900.00		900.00
5040	E	Insurance- Liability	1,010.20	568.00		582.00
		AJE#3 To reverse prior year accrual of prepaid expense.			318.00	
		AJE#7 To account for prepaid expenses at 6/30/18			(304.00)	
5041	E	Insurance- BOND	1,609.37	2,168.65		1,650.95
		AJE#3 To reverse prior year accrual of prepaid expense.			65.63	
		AJE#7 To account for prepaid expenses at 6/30/18			(583.33)	
5050	E	Legal, Lobbying & Professional Fees	624.77	3,997.93		3,997.93
5060	E	Miscellaneous Expense	2,257.47	0.00		0.00
5065	E	Office Equipment	1,610.10	189.50		189.50
5070	E	Office Supplies	2,751.99	3,516.24		3,516.24
5080	E	Other General and Admin Expenses	504.15	985.31		985.31
5100	E	Payroll Expenses:Company Contributions:Retirement	5,014.15	33,469.92		0.00
		AJE #9 To Adjust for GASB-68 Compliance			(33,469.92)	
5101	E	Payroll Expenses:Taxes	0.00	(1,189.88)		5,945.21
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			7,135.09	
5102	E	Payroll Expenses:Wages	0.00	147,099.46		143,871.10
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			1,594.39	
		AJE #6 To Adjust Compensated Absences to Actual at 06/30/18			(4,822.75)	
5110	E	Payroll Expenses 2016	732.95	0.00		0.00
5120	E	Payroll- Health Ins, Medicare & PERS	12,099.89	34,042.18		28,532.57
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(5,509.61)	
5130	E	Payroll- Salaries	91,813.57	0.00		0.00
5131	E	Payroll- Subcontractors	17,690.00	0.00		0.00
5140	E	Postage and delivery costs	1,514.24	1,775.78		1,665.11
		AJE#7 To account for prepaid expenses at 6/30/18			(110.67)	
5150	E	Printing & Copying (incl leased copier)	1,983.22	2,039.08		2,039.08
5155	E	QuickBooks Payments Fees	6,579.34	7,061.73		7,061.73
5160	E	Rent or Lease	9,587.00	13,615.70		13,615.70

**Nevada State Board of Optometry
Trial Balance Worksheet**

Account	Type	Description	06/30/17 Adjusted Balance	06/30/18 Unadjusted Balance	Adjusting JE Adjustments	06/30/18 Adjusted Balance
5170	E	Travel- in State (Staff & Board)	5,227.42	4,255.24		4,255.24
5180	E	Utilities- Phone, Internet, Gas & Electric	4,407.32	4,549.62		4,549.62
5190	E	Website development & upkeep	9,881.79	4,446.27		4,446.27
5205	E	Insurance- Workers Comp	0.00	500.00		500.00
5220	E	Retirement Benefits	0.00	0.00		23,152.00
		AJE #9 To Adjust for GASB-68 Compliance			23,152.00	
5225	E	Deemed Member Contributions	0.00	0.00		14,987.33
		AJE #9 To Adjust for GASB-68 Compliance			14,987.33	
5230	E	Payroll Taxes	24,032.12	1,064.35		0.00
		AJE #5 To Adjust Payroll Related Liabilities and Expenses to Actual at 06/30/18			(1,995.33)	
		AJE#4 To Record Adjustments Posted by Client After TB Import			930.98	
5260	E	Accounting	5,015.00	14,738.50		23,988.50
		AJE#8 To reverse prior year checks posted in July that were recorded in prior year adjustment.			(250.00)	
		AJE#11 To accrue accounts payable at 6/30/18			9,500.00	
5310	E	Refunds	1,360.00	0.00		0.00
5320	E	Fines	0.00	4,170.81		5,631.20
		AJE#4 To Record Adjustments Posted by Client After TB Import			1,460.39	
5400	E	Depreciation Expense	559.38	0.00		1,447.17
		AJE#1 To record depreciation expense through 6/30/18			1,447.17	
6000	R	Interest Earned	(742.16)	(926.38)		(980.77)
		AJE #2 To Record Beginning Balance Adjustment			(41.87)	
		AJE#4 To Record Adjustments Posted by Client After TB Import			(12.52)	
Totals			<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Net Profit/(Loss)			<u>(13,597.03)</u>	<u>(37,143.78)</u>		<u>(67,901.43)</u>

Management Report

Nevada State Board of Optometry
For the period ended May 13, 2019



Prepared on
May 13, 2019

Profit and Loss

July 1, 2018 - May 13, 2019

	Total
INCOME	
Billable Expense Income	400.38
Endorsement Application	2,475.00
Fees- Applications	14,750.00
Fees- Cert/Add'l Location/Addr. Changes	58,900.00
Fees- License Renewals	180,250.00
Merchant Fee Income	7,762.38
Miscellaneous Income	500.00
Penalties - Discipline	1,899.00
Penalties- Admin	4,125.00
Total Income	271,061.76
GROSS PROFIT	271,061.76
EXPENSES	
Accounting & Bookeeping	22,682.22
Bank Charges	76.00
Board Pay, Travel & Per Diem	2,767.50
Computer purchase incl. Software	1,039.80
Contract Labor	475.00
Dues & Subscriptions	900.00
Insurance- BOND	1,000.00
Insurance- Liability	768.18
Legal, Lobbying & Professional Fees	5,733.52
Office Expense	2,096.79
Other Miscellaneous Service Cost	96.27
Payroll Expenses	6,339.76
Company Contributions	
Retirement	2,171.44
Total Company Contributions	2,171.44
Insurance- Workers Comp	1,061.00
Payroll Taxes	2,282.00
Payroll- Health Ins, Medicare & PERS	19,424.09
Retirement	6,893.04
Taxes	182.08
Wages	98,345.59
Total Payroll Expenses	136,699.00
Postage and delivery costs	1,121.00
Printing & Copying (incl leased copier)	2,167.47
QuickBooks Payments Fees	7,446.26
Rent or Lease	12,498.51
Travel- in State (Staff & Board)	4,308.94
Utilities- Phone, Internet, Gas & Electric	5,087.60
Website development & upkeep	4,719.40

	Total
Total Expenses	211,683.46
NET OPERATING INCOME	59,378.30
OTHER INCOME	
Interest Earned	1,094.66
Total Other Income	1,094.66
OTHER EXPENSES	
Non-Deductible Penalties & Interest	2.65
Total Other Expenses	2.65
NET OTHER INCOME	1,092.01
NET INCOME	\$60,470.31

Balance Sheet

As of May 13, 2019

	Total
ASSETS	
Current Assets	
Bank Accounts	
City National Bank	192,450.63
Heritage 4251 Savings	198,736.12
NV State Bank 1303 Savings	193,265.03
Total Bank Accounts	584,451.78
Other Current Assets	
Payroll Refunds	4,731.08
Total Other Current Assets	4,731.08
Total Current Assets	589,182.86
TOTAL ASSETS	\$589,182.86
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Payroll Liabilities	38,471.26
Deferred Comp	-7,225.00
Federal Taxes (941/944)	-30,059.11
HSA	-100.00
Medicare	-930.02
PEBP	-8,342.92
PERS	-3,210.14
Vol Life & Dep Life Insurance	-228.67
Total Payroll Liabilities	-11,624.60
Total Other Current Liabilities	-11,624.60
Total Current Liabilities	-11,624.60
Total Liabilities	-11,624.60
Equity	
Retained Earnings	540,337.15
Net Income	60,470.31
Total Equity	600,807.46
TOTAL LIABILITIES AND EQUITY	\$589,182.86

Expenses by Vendor Summary

July 1, 2018 - May 13, 2019

	Total
Administrative Services Division	135.94
Adobe Acrobat Pro	303.80
Advantage Computer	1,785.00
Alamo	57.19
Amazon	291.07
Ameriprise Financial	3,187.99
ARBO	900.00
Capital Insurance Group	500.00
Caren C. Jenkins	1,385.39
Chen Young, O.D.	750.00
CIG Insurance	768.18
CITY NATIONAL BANK	76.00
CNA Surety	1,000.00
COSTCO	229.17
Drew Johnson	450.00
DS Waters	72.66
eFAX	169.50
GODADDY	1,884.40
Groupon	13.50
HOTELS.COM	124.72
Intuit Payroll	32.00
IRS	305.72
Jeffrey Austin	600.00
Laura Adair	40.00
LEAF	1,989.59
Magdalena Groover	475.00
Mariah Smith O.D.	820.00
McDonald Carano Govt Aff & Adv	3,000.00
MICHAELS STORES	27.85
Microsoft	110.00
NAI Alliance	12,498.51
NV Controller's Office Capitol Complex	6,001.00
NV Energy	951.12
OFFICE DEPOT	835.13
OFFICE WORLD	421.50
PEBP	11,534.41
PEBP REGI	699.47
PERS	12,099.41
QB ONLINE	0.73
QuickBooks Payments	8,131.55
Red Rock	151.53
Reno Airport Authority	58.00

	Total
Reno TECHS	1,050.00
Sierra Office Solutions	177.88
SMART & FINAL	12.83
SOUTHWEST AIRLINES	2,083.77
Southwest Gas	442.70
Spectrum Business/Charter Communications	1,895.08
STAMPS.COM	161.90
State of NV Attorney General	2,733.52
Steele CPAs	9,500.00
The D Hotel	256.40
The Egg Works	26.05
The Hartford	541.00
U S Treasury	3,683.05
United States Treasury	-5.10
US Postal Service	959.10
Walmart	70.64
Wellington Bookkeeping	13,182.22
Not Specified	95,228.29
TOTAL	\$206,866.36

	A	B	C	D	E	F	G	H
1		Nevada State Board of Optometry						
2	Budget vs. Actuals: 2018-2019 (AS OF May 13, 2019)							
3								
4								
5		Proposed 2019-	Total					
6			Actual	Budget	over Budget	Budget		
7	Income							
8	Billable Expense Income	\$ 300.00	\$ 400.38	\$ -	\$ 400.38			
9	Endorsement Application	\$ 3,000.00	\$ 2,700.00	\$ 5,000.00	\$ (2,300.00)	54%		
10	Fees- Applications	\$ 17,000.00	\$ 16,550.00	\$ 12,000.00	\$ 4,550.00	138%		
11	Fees- Cert/Add'l Location/Addr. Changes	\$ 60,000.00	\$ 59,950.00	\$ 57,500.00	\$ 2,450.00	104%		
12	Fees- License Renewals	\$ 180,000.00	\$ 180,250.00	\$ 172,000.00	\$ 8,250.00	105%		
13	Merchant Fee Income	\$ 8,000.00	\$ 7,870.02	\$ 7,000.00	\$ 870.02	112%		
14	Miscellaneous Income	\$ 500.00	\$ 500.00	\$ -	\$ 500.00			
15	Penalties - Discipline	\$ -	\$ 1,899.00	\$ -	\$ 1,899.00			
16	Penalties- Admin	\$ 1,000.00	\$ 4,125.00	\$ 3,125.00	\$ 1,000.00	132%		
17	Sales of Product Income	\$ -	\$ -	\$ 125.00	\$ (125.00)	0%		
18	Total Income	\$ 269,800.00	\$ 274,244.40	\$ 256,750.00	\$ 17,494.40	107%		
19	Gross Profit		\$ 274,244.40	\$ 256,750.00	\$ 17,494.40	107%		
20								
21								
22	Expenses							
23	Accounting & Bookkeeping	\$ 25,000.00	\$ 23,844.22	\$ 25,000.00	\$ (1,155.78)	95%	\$	3,500.00
24	Bank Charges	\$ 100.00	\$ 76.00	\$ 350.00	\$ (274.00)	22%		
25	Board Pay, Travel & Per Diem	\$ 4,000.00	\$ 2,767.50	\$ 4,000.00	\$ (1,232.50)	69%		
26	Computer purchase incl. Software	\$ 1,100.00	\$ 1,080.80	\$ 200.00	\$ 880.80	540%		
27	Contract Labor	\$ 500.00	\$ 475.00	\$ -	\$ 475.00			
28	Dues & Subscriptions	\$ 1,500.00	\$ 900.00	\$ 900.00	\$ -	100%		
29	Insurance- BOND	\$ -	\$ 1,000.00	\$ 1,500.00	\$ (500.00)	67%		
30	Insurance- Liability	\$ 850.00	\$ 768.18	\$ 600.00	\$ 168.18	128%		
31	Legal, Lobbying & Professional Fees	\$ 6,000.00	\$ 5,733.52	\$ 6,000.00	\$ (266.48)	96%	\$	6,000.00

	A	B	C	D	E	F	G	H
32	Office Equipment	\$ 500.00	\$ -	\$ 300.00	\$ (300.00)	0%		
33	Office Expense	\$ 2,000.00	\$ 1,960.85	\$ 3,500.00	\$ (1,539.15)	56%		
34	Other General and Admin Expenses	\$ 1,000.00	\$ 135.94	\$ 1,000.00	\$ (864.06)	14%		
35	Other Miscellaneous Service Cost	\$ -	\$ 58.77	\$ -	\$ 58.77			
36	Payroll Expenses	\$ 8,000.00	\$ 6,371.76	\$ 195,000.00	\$ (188,628.24)	3%		
37	Company Contributions		\$ -	\$ -	\$ -			
38	Retirement	\$ 3,000.00	\$ 2,171.44	\$ -	\$ 2,171.44			
39	Total Company Contributions		\$ 2,171.44	\$ -	\$ 2,171.44			
40	Insurance- Workers Comp	\$ 1,200.00	\$ 1,061.00	\$ -	\$ 1,061.00			
41	Payroll Taxes	\$ 3,000.00	\$ 2,282.00	\$ -	\$ 2,282.00			
42	Payroll- Health Ins, Medicare & PERS	\$ 23,000.00	\$ 17,910.52	\$ -	\$ 17,910.52			
43	Retirement	\$ 10,000.00	\$ 6,893.04	\$ -	\$ 6,893.04			
44	Taxes		\$ 182.08	\$ -	\$ 182.08			
45	Wages	\$ 120,000.00	\$ 103,023.15	\$ -	\$ 103,023.15			
46	Total Payroll Expenses		\$ 139,894.99	\$ 195,000.00	\$ (55,105.01)	72%		
47	Payroll Expenses 2016		\$ -	\$ -	\$ -			
48	Payroll Expenses 2017		\$ -	\$ 1,500.00	\$ (1,500.00)	0%		
49	Total Payroll Expenses 2016		\$ -	\$ 1,500.00	\$ (1,500.00)	0%		
50	Postage and delivery costs	\$ 1,250.00	\$ 1,121.00	\$ 1,750.00	\$ (629.00)	64%		
51	Printing & Copying (incl leased copier)	\$ 350.00	\$ 2,182.44	\$ 2,000.00	\$ 182.44	109%		
52	QuickBooks Payments Fees	\$ 8,000.00	\$ 7,428.02	\$ 7,000.00	\$ 428.02	106%		
53	Reimbursements		\$ -	\$ -	\$ -			
54	Rent or Lease	\$ 13,500.00	\$ 12,498.51	\$ 13,500.00	\$ (1,001.49)	93%		
55	Travel- in State (Staff & Board)	\$ 5,000.00	\$ 4,308.94	\$ 3,590.00	\$ 718.94	120%		
56	Utilities- Phone, Internet, Gas & Electric	\$ 5,500.00	\$ 5,184.06	\$ 4,750.00	\$ 434.06	109%		
57	Website development & upkeep	\$ 5,000.00	\$ 4,719.40	\$ 3,400.00	\$ 1,319.40	139%		
58	Total Expenses	\$ 249,350.00	\$ 216,138.14	\$ 275,840.00	\$ (59,701.86)	78%		
59	Net Operating Income	\$ 19,200.00	\$ 58,106.26	\$ (19,090.00)	\$ 77,196.26	-304%		
60								
61								

	A	B	C	D	E	F	G	H
62	Other Income							
63	Interest Earned	\$ 1,250.00	\$ 1,228.85	\$ -	\$ 1,228.85			
64	Total Other Income		\$ 1,228.85	\$ -	\$ 1,228.85			
65	Other Expenses							
66	Non-Deductible Penalties & Interest		\$ 2.65	\$ -	\$ 2.65			
67	Total Other Expenses		\$ 2.65	\$ -	\$ 2.65			
68	Net Other Income		\$ 1,226.20	\$ -	\$ 1,226.20			
69	Net Income	\$ 20,450.00	\$ 59,332.46	\$ (19,090.00)	\$ 78,422.46	-311%		
70								
71								
72		Assumes 3% COLA granted by						
73	Friday, May 17, 2019 06:06:59 PM	nor Sisolak and 5% salary						
74		increase for E.D. , plus avg. 30 hr/week						
75		and 5% for Licensing Specialist.						

MEETING MATERIALS FOR AGENDA ITEM 6

Consideration of Complaints

- A. Complaint No. 19-16 - Proposed Stipulated Settlement and Order.
- B. Complaint No. 19-18 - Just and Sufficient Cause Determination.
- C. Case No. 18-17 - Petition for Rehearing, followed by Rehearing, if Petition granted.

A. Complaint No. 19-16 - Proposed Stipulated
Settlement and Order.

**B. Complaint No. 19-18 - Just and Sufficient
Cause Determination.**

C. Case No. 18-17 - Petition for Rehearing,
followed by Rehearing, if Petition granted.

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STIPULATED SETTLEMENT AND ORDER

ORDER

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- 3

1 5. Complainant and Respondent agree that imposition of this administrative penalty
2 shall not constitute discipline on Respondent's license to practice optometry in
3 Nevada, and will not be reported to the National Practitioner Data Bank or to another
4 third party except in response to a public records request.
5

6 AGREED TO BY BOTH PARTIES:

7
8 CHEN K. YOUNG, O.D.,
9 President, Nevada State Board of
Optometry

10 ROBERT ALLEN PEARSON, O.D.
11

12 AGREED AS TO FORM AND CONTENT BY COUNSEL/STAFF FOR BOTH PARTIES:

13 
14 CAREN C. JENKINS, ESQ.
15 As Executive Director of the Nevada State Board of
Optometry

16
17 SAGAR RAICH, ESQ.
18 Attorney for Respondent
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1 **ORDER**

2 Upon consideration at the May 21, 2019 meeting of the Nevada State Board of Optometry, the
3 Board voted to accept the above stipulation, and therefore IT IS HEREBY ORDERED that Case
4 No. 19-16, upon receipt by the Board of an administrative late fee of \$250.00 from Respondent,
5 is DISMISSED WITH PREJUDICE in reliance on and in agreement with the parties'
6 stipulations as stated above.

7 Dated this ____ day of _____, 2019.

8
9 CHEN K. YOUNG, O.D., President, Nevada State
Board of Optometry

CMLT 19-18

NEVADA STATE BOARD OF OPTOMETRY



CHEN K. YOUNG, O.D.
Board President

JEFFREY K. AUSTIN, O.D.
Board Member

Post Office Box 1824
Carson City, Nevada 89702
Telephone: (775) 883-8367
Facsimile: (775) 305-0105
E-Mail: admin@nvoptometry.org

CAREN C. JENKINS, ESQ.
Executive Director
cjenkins@nvoptometry.org

MARIAH L. SMITH, O.D.
Board Member

DREW JOHNSON
Public Board Member

May 14, 2019

Transmitted via email only

Dear Licensee:

Enclosed you will find a copy of a complaint filed with the Board of Optometry. **The Board will consider the complaint on May 21, 2019, beginning at 12 noon via telephone.** The Board's sole determination at this point is whether the complaint presents sufficient information to move the matter forward for investigation and hearing. The public is invited to join the conference call, but **NO TESTIMONY WILL BE TAKEN** at this point.

Your identity will be shielded from the Board and the public at this point. The Board will make its determination based on the complaint and the redacted version of the materials enclosed with this letter. The unredacted version will be withheld from the Board at this time.

The Board may dismiss the Complaint at the meeting. However, if the board deems further action is required, and the Board's staff will undertake an investigation in preparation for an evidentiary hearing. At that hearing, you will be permitted to bring evidence and witnesses.

You are invited to contact me or to submit an informal response to the Complaint. If you choose to submit any materials, please direct them by mail or by email to the address above **by May 20, 2019 at 5 pm. Your information may or may not be presented to the Board at this time.**

Please call if you have any questions.
Sincerely,

/s/

Caren C. Jenkins, Esq.
Executive Director
Enclosures: Complaint (redacted)

NOTICE

The Board will consider the attached Complaint at its next regular public meeting scheduled for **May 21, 2019, beginning at 12 noon via telephone**. The public is invited to monitor the deliberations, but **NO TESTIMONY WILL BE ACCEPTED** on the Complaint at that meeting.

Your identity will not be disclosed to the Board unless and until the Board finds that further action is required based solely on the facts alleged. You will be notified of the outcome of the meeting shortly after a determination is made.

Thereafter, if the board deems further action is required, an investigation will ensue. Once the investigation is completed, a public evidentiary hearing will be scheduled and you will be permitted to bring evidence and witnesses on your behalf.

CMPLT 19-18

From:
To: Admin
Date: Tuesday, April 30, 2019 4:28:10 PM

Re:

To Whom It May Concern:

Please review this letter thoroughly. I have talked to the provider. And no resolution has been made by Dr . He wants to give \$492.61 glasses for reading that he told me to go to the dollar store to get reading glasses.

This letter is to express my dissatisfaction and frustration with in , Nevada. I've been trying to obtain glasses since June 22, 2018 without success.

The following chronicles the frustration I have endured and the expense I have incurred.

On June 22, 2018, I met with Dr. . She diagnosed a cataract in my right eye but did not indicate the severity. Glasses were prescribed and I was directed to select frames. \$150 was the lowest price frame. Also, I was advised that my portion of the cost would be \$492.61 plus charges billed to Senior Care Plus/ EYEMED.

The following day I phoned the office informing them that no measurements were taken. I was contradicted and told that there were. Three weeks later the glasses were ready. Wearing them half a day was painful as the nose piece was too tight. I returned to the office 8 times to address this issue. During that period of time I mentioned that the bifocals were not measured and were not aligned properly. Separate from that my vision was foggy due to the cataract and no glasses would correct that.

I was then referred to Dr. for a second opinion . He diagnosed cataracts in both eyes and recommended surgery. I was then referred to the surgeon Dr. .

The surgery on my right eye was performed on November 6, 2018. The left eye on January 15, 2019. Both were successful.

Post surgery of my right eye required a return to I voiced my concerns about the eyeglasses made for me that were useless. He replied that those eyeglasses should NEVER have been ordered and he would NOT refund the money. Does that make sense?

Post surgery on my left eye required another visit to Dr. . Prior to that I mentioned my terrible experiences with him to my surgeon, Dr. , who thought I should give Dr. another chance. I did. My exam revealed 20-20 vision, but a need for reading glasses. He suggested the Dollar Store.

During my final exam with Dr. , he indicated that the defective glasses would be made into reading ones. I find this totally unacceptable. No glasses should have been prescribed prior to my cataract surgeries and I should have been advised as such. Since I'm not a medical expert I had to rely on their professional advice. As an aside, my brother-in-law used Costco as a provider. The doctor would not prescribe glasses until his cataracts were removed.

Insurance was billed \$729 with my portion being \$492.61 which I am making payments on. I am on a limited income and feel extremely stressed and mistreated by . I would like a full refund of my money, and the prescription for reading glasses so that I may seek another eye service facility. As a point of interest my sister purchased a pair of reading glasses for \$136 including frames, and AR coating, plus \$85 for an eye exam at Costco with no problems whatsoever. She was extremely satisfied with the optometrist and staff. As is a provider of yours, I would hope that you would expect the same level of customer service. Walmart reading glasses are in a range of \$39-\$179.

Where is the oversight here? Doesn't your company monitor costs to protect patients from such outlandish expense?

Attached is a statement of charges from . I don't understand how the charges for reading glasses can be the same as multifocal lenses with AR coating, lenses, and frames. Other charges on this statement could use some explanation also.

My main question is this. WHY WON'T DOCTOR DO THE ETHICAL THING? His comment was he'd make it right. Changing the \$792 glasses to reading ones without a substantial decrease in price is outrageous. It's been nine months with no resolve, and me wearing Dollar Store glasses. The difference between \$1 and \$792 is astronomical.

I would appreciate any assistance that you could provide and look forward to a resolution.

Thank you.

Respectfully,



Caren Jenkins

From: drbrooker@advancedvisioninstitute.net
Sent: Thursday, April 25, 2019 8:58 AM
To: Caren Jenkins
Subject: RE: Website and Complaint 18-17

Dear Caren,

I am in receipt of the order you sent on behalf of the board. I must say I am very upset at the outcome and I feel the weight of the discipline is weighted very heavy considering the circumstances surrounding the situation.

Also in the paperwork it was stated that no evidence or statements were provided on my behalf. This is not true. Several months ago along the time of the original complaint I provided a letter from the company NEON brand that took responsibility for the error. I had no control over what was done on my website. This vendor had accessed my site and made changes to content without my approval or knowledge. I in fact had no idea that statement was even on the site. It was a mistake of an uneducated employer of NEON brand. That being said the statement was amended and removed within 30 mins of it being brought to my attention. Additionally, the employee of NEON brand was fired and subsequently we also redid our website and changed our vendor. Redoing our site cost thousands of dollars.

I also sent a statement to the board regarding this situation and it was indicated in the paperwork that this was also not presented during the hearing.

I was under the impression when we last spoke that the hearing was only a formality and then we would see if the board would pursue anything further at which point I could provide further documentation or my own testimony.

I was not offered this opportunity. I think much of this process was difficult to follow since as you mentioned in your email that there were a great deal of changes with the board and a lot going on to get the board re-organized.

I would like to request an appeal on this case and have the opportunity to defend my stance. What occurred was no different than someone hacking into my website and making changes to content unauthorized. I have always worked closely with ophthalmologists and I have several in Nevada and out of state that can testify on my behalf. I have never attempted to represent myself or my medical optometry practice as such and especially have never had intent or need to to this.

Therefore, can we please have a phone call next week to discuss this matter so I can start an arrangement to make an appeal on these circumstances. I am hopeful this time evidence in support of my side can be reviewed in reconsideration.

Thank you,

Dr. Eric T Brooker
Chief Medical Director
www.AdvancedVisionInstitute.net

