

NEVADA STATE BOARD OF OPTOMETRY



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Meeting Materials for

NV State Board of Optometry

Workshop/Regular Meeting

Tuesday, October 1, 2019

MEETING MATERIALS OCTOBER 1, 2019

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REVISED AGENDA & NOTICE OF WORKSHOP **TO SOLICIT COMMENTS ON PROPOSED REGULATIONS**

The Nevada State Board of Optometry
will hold a **telephonic** workshop
Tuesday October 1, 2019 at 11:00 am

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. **Call to Order** by Optometry Board Vice-President Mariah L. Smith, O.D., Chair, Subcommittee on Legislative and Regulatory Changes.
2. **Public Comment.**
3. **Open Public Workshop** to discuss Proposed Changes to NAC 636 to implement various provisions of NRS Ch. 636 and consideration of the Small Business Impact of proposed regulations. (Materials are attached to this Agenda, and will be updated as they become available)
4. **Public Comment.**
5. **Adjournment.**

The Board posted this notice at the board office, and on the board website (nvoptometry.org), the State of Nevada Public Notices website (<https://notice.nv.gov>) and in the following locations:
Carson City Courthouse, 885 East Musser Street, Carson City; Office of the NV Attorney General, 5420 Kietzke Lane, Suite 202, Reno & 555 E. Washington Ave. #3900, Las Vegas; and Douglas Co. Court, 1616 8th Street, Minden.

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

REVISED AGENDA & NOTICE OF REGULAR MEETING

The Nevada State Board of Optometry
will hold a **telephonic** meeting

Tuesday October 1, 2019 at 12 Noon or
upon adjournment of the Regulatory Workshop

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

REVISED AGENDA

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

Introduction of Deputy Attorney General Asheesh S. Bhalla, Esq., recently assigned to serve as counsel to the Board.

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 June 25, 2019 and August 5, 2019 Optometry Board meetings. (Materials provided)

4. ***For Possible Action.** **Reports and Recommendations.**

a. Consideration and approval of proposed modifications to NAC Chapter 636, and Small Business Impact Statement, Mariah Smith, O.D., Chair, Subcommittee on Legislative and Regulatory Changes.

b. Report on Education & Outreach Efforts, Jeffrey Austin, O.D., Chair.

c. Report on Website Revision, Drew Johnson, Chairperson.

d. Executive Director's Report, Caren C. Jenkins, Esq., Executive Director.

1. Revision of forms & website by December 1, 2019.

2. FARB Forum, Colorado Springs, Jan 23-26. 2020.

3. Proposal for revision to Board Policies Re: continuing education.

5. ***For Possible Action.** **Complaints before the Board.** (Materials provided)

a. Complaint No. 20-01 Consideration of just & sufficient cause to investigate.

b. Complaint No. 20-02 No Jurisdiction (Executive Director recommendation).

c. Complaint No. 20-04 No Jurisdiction (Executive Director recommendation).

d. Complaint No. 20-06 Proposed Stipulated Settlement.

- e. Case No 20-07, Petition for Declaratory Order regarding the propriety of optometrists engaged in advertising & promotion opportunity.
 - f. Amendment of Stipulated Settlement, Consolidated Case Nos. 19-05 and 19-11.
6. Announcements and requests for **future Board consideration**. (No action shall be taken on these matters at this meeting)

NEXT BOARD MEETINGS are scheduled for Noon on <u>Tuesday, November 5, 2019</u> by telephone, Noon on <u>Tuesday December 3, 2019</u> by telephone, and 9:00 am on <u>Tuesday, January 7, 2020</u> in-person in Las Vegas.

7. **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.

8. Adjournment.

* * * * *

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

Carson City Courthouse, 885 East Musser Street, Carson City; Office of the Nevada Attorney General, 5420 Kietzke Lane, Suite 202, 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 Exec. Dir. Caren C. Jenkins at (775) 883-8367 in advance to make arrangements.

MEETING MATERIALS: To view the meeting materials provided to the Board, if any, visit www.nvoptometry.org, or request mailing of a hard copy not later than 5 working days in advance at 775-720-1181 or by email at admin@nvoptometry.org.

MEETING MATERIALS

Exhibit 1

**ATTACHED ARE THE MEETING MATERIALS
FOR THE REGULATORY WORKSHOP HELD AT
11:00 am on October 1, 2019**

Proposed Amendments to NAC Chapter 636

When the Legislative Counsel Bureau has completed its draft of these proposed amendments, the resulting pages will be posted on the Board Website at

www.nvoptometry.org.

Please check our website for updates before the workshop.

PROPOSED REVISIONS TO NAC CHAPTER 636

REGARDING OPTOMETRY

Red = delete and Green = new language

GENERAL PROVISIONS

NAC 636.010 Definitions. ([NRS 636.125](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 636.030](#), [636.050](#), ~~and~~ [636.055](#), and [636.XXX](#) have the meanings ascribed to them in those sections.

[Bd. of Optometry, part Definitions, eff. 5-26-78] — (NAC A 8-4-94; R126-99, 12-13-99)

NAC 636.030 “Board” defined. ([NRS 636.125](#)) “Board” means the Nevada State Board of Optometry.

[Bd. of Optometry, Definition No. 3, eff. 5-26-78]

NAC 636.050 “Office” defined. ([NRS 636.125](#)) “Office” means any office or other place for the practice of optometry. The term includes the contiguous area which the licensee owns or leases in conjunction with the practice of optometry [or a motor vehicle or trailer utilized as a certified mobile optometry clinic.](#)

[Bd. of Optometry, Definition No. 4, eff. 5-26-78]

NAC 636.055 “Ophthalmic products” defined. ([NRS 636.125](#)) “Ophthalmic products” means any materials used for the correction or relief of or remedy for any abnormal condition or inefficiency of the eye or visual process. The term includes, but is not limited to, spectacle frames, spectacle lenses, contact lenses, [devices](#) and ~~[ocular solutions and ointments]~~ [pharmaceutical agents.](#)

(Added to NAC by Bd. of Optometry, eff. 8-4-94)

[Additional section for definitions:](#)

[A “vision screening” does not result in interpretation, treatment, diagnosis, or a prescription, or include a subjective refraction, and would not fall under the Board’s jurisdiction. Any optometric examination, eye exam, eye test, vision exam or vision test performed by a licensee that does result in one of a aforementioned would fall under the Board’s jurisdiction.](#)

EXAMINATIONS

NAC 636.075 Two parts; review by Board. ([NRS 636.125](#), [636.150](#), [636.180](#))

1. The examination required pursuant to [NRS 636.150](#) will consist of two parts, as follows:

(a) [The Part I, Part II, and Part III examination and the Treatment and Management of Ocular Disease examination prepared by the National Board of Examiners in Optometry or the equivalent; and](#)

(b) The examination prepared by the Board which relates to the laws and regulations governing the practice of optometry in this State.

2. The Board [or its designee](#) will review the results of the examination of an applicant. If the Board determines that the results comply with the requirements of [chapter 636](#) of NRS, [and the applicant has met all of the other requirements identified,](#) the Board or its designee will review, reject, or approve the application for licensure of the applicant [within 30 days.](#)

3. [Upon receipt of notice of approval of his or her application, the applicant must submit the required license fee and identify his or her practice to the Board.](#)

4. [Within 60 days of receipt of all required information and fees, the licensee will be provided a licensure certificate for display.](#)

(Added to NAC by Bd. of Optometry, 8-4-94, eff. 1-1-95; A by R126-99, 12-13-99)

~~— [NAC 636.080 Reexaminations. (NRS 636.125, 636.195)~~

~~— 1. An applicant who makes a request for reexamination to obtain a license to practice optometry must not be permitted to take more than three examinations.~~

~~— 2. Reexaminations must take place within 5 years after the date the applicant was initially examined.~~

~~— 3. An applicant who makes a request for reexamination must:~~

~~— (a) If he wishes to be reexamined on that part of the examination prepared by the Board, apply to the Board.~~

~~— (b) If he wishes to be reexamined on any part of the examination prepared by the National Board of Examiners in Optometry, apply to the National Board of Examiners in Optometry.~~

~~— [Bd. of Optometry, § III subsec. 1, eff. 5-26-78] — (NAC A 8-4-94, eff. 1-1-95)]~~

HEALTH MAINTENANCE ORGANIZATIONS

NAC 636.085 Application for permit to provide services. (NRS 636.125, 636.347) An applicant for a permit to be employed by or contract with a health maintenance organization to provide services therefor must submit to the Board:

1. Evidence that he or she is a licensed optometrist in this State;
2. A copy of the agreement for employment or contract and all renewals or extensions thereof;
3. A copy of the certificate of authority of the health maintenance organization issued pursuant to [chapter 695C](#) of NRS; and
4. Evidence that nothing contained in his or her agreement for employment or contract requires him to violate any of the provisions of [chapter 636](#) of NRS or this chapter.

(Added to NAC by Bd. of Optometry, eff. 3-6-86)

ADVERTISING

NAC 636.110 “Do not meet the specifications of the American National Standards Institute” defined. (NRS 636.125, 636.302, 636.380) As used in [NAC 636.120](#) to [636.200](#), inclusive, the phrase “Do not meet the specifications of the American National Standards Institute” means that the ophthalmic products:

1. Were not purchased from a manufacturer or wholesaler who warrants that they meet ~~[those]~~ the most current version of ANSI specifications, if applicable; or
 2. Do not meet ~~[those]~~ the most current version of ANSI specifications, if applicable.
- [Bd. of Optometry, Definition No. 6, eff. 5-26-78] — (NAC A 8-4-94; 1-24-96)

NAC 636.115 Manner in which optometrist who is certified to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents may represent himself to public. (NRS 636.125, 636.287, 636.302, 636.380) An optometrist who is certified to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents pursuant to [NRS 636.288](#):

1. May represent himself to the public as:
 - (a) Certified in the treatment of ocular disease;
 - (b) Board certified in the treatment of ocular disease;
 - (c) Board certified in the treatment and management of ocular disease; or
 - (d) Certified in the treatment and management of ocular disease.
2. May not, when referring to his or her certification, represent himself or herself to the public in any manner other than the exact designations set forth in subsection 1.

(Added to NAC by Bd. of Optometry by R059-97, eff. 1-22-98)

NAC 636.120 Abbreviations. (NRS 636.125, 636.302, 636.380)

1. An optometrist who is licensed in this state may represent his or her professional designation as:

- (a) Optometrist;
- (b) O.D.
- (c) OD
- (d) Doctor of Optometry
- (e) Dr. of Optometry
- (f) other options that aren't misleading as deemed by the Board

2. No abbreviation may be used for any of the information required by [NAC 636.130](#) to [636.200](#), inclusive, except abbreviations approved in writing by the Board.

[Bd. of Optometry, § I subsec. I, eff. 5-26-78] — (NAC A 12-1-86; 8-4-94)

NAC 636.130 Posting of signs. ([NRS 636.125](#), [636.302](#), [636.380](#))

1. A licensee shall post a sign at the entrance to his or her office address listed on his or her primary or any secondary practice location registered with the Board that specifies, at a minimum, ~~his~~ the ~~full~~ last name that appears on his or her license, professional designation and the hours during which the office is open.

2. A sign posted at a location which is remote from the office must specify, at a minimum, the ~~full~~ last name of the licensee as it appears on his or her license and his or her professional designation.

[Bd. of Optometry, § I subsec. A, eff. 5-26-78] — (NAC A 12-1-86; 8-4-94; 1-24-96)

NAC 636.140 Printed or electronic advertisements. ([NRS 636.125](#), [636.302](#), [636.380](#)) Any printed or electronic advertisement for the optometrist or ophthalmic product must contain, at a minimum, the ~~full~~ last name of the optometrist as it appears on the optometrist's license and his or her professional designation, or the fictitious name filled with the Board. Any disclaimer in ~~the~~ an advertisement must be printed in such a manner as to allow a reasonable person to read and understand it. Any printed or electronic advertisement for the licensee must be clearly separate from any advertisement paid for or produced by any unlicensed entity.

[Bd. of Optometry, § I subsec. B, eff. 5-26-78] — (NAC A 12-1-86; 1-24-96)

NAC 636.142 Broadcast advertisements. ([NRS 636.125](#), [636.302](#), [636.380](#)) Any broadcast advertisement placed by an optometrist licensed to practice in this State must include an oral statement of the ~~full~~ last name of the optometrist as it appears on the optometrist's license and his or her professional designation, or the fictitious name filled with the Board. Any disclaimer in the advertisement must be displayed or communicated in such a manner that a reasonable person would have the opportunity to read or hear and understand it. Any broadcasted advertisement for the licensee must be clearly separate from any advertisement paid for or produced by any unlicensed entity.

(Added to NAC by Bd. of Optometry, eff. 1-24-96)

NAC 636.145 Symbols or logos for advertising. ([NRS 636.125](#), [636.302](#), [636.380](#)) A licensee may use a symbol or logo for advertising if it is:

1. Displayed with, at a minimum, the ~~full~~ last name and professional ~~identification~~ designation of the licensee or their fictitious name filled with the Board; and
2. Printed no more prominently than the name and professional ~~identification~~ designation of the licensee.

(Added to NAC by Bd. of Optometry, eff. 8-4-94)

NAC 636.150 Ophthalmic products. ([NRS 636.125](#), [636.302](#), [636.380](#), [NRS 636.016](#)) Advertising of ophthalmic products or devices must include a statement whether the price or discounted price includes an examination of the eyes, ~~the following information~~ and, if printed or used in an electronic medium, the information must ~~be printed~~ appear as prominently as the words promoting the product~~;~~

~~1. A statement whether the price or discounted price includes an examination of the eyes.~~
~~[2. If applicable, a statement that the product is a second or has been discontinued.]~~

3. A notice, "Do not meet the specifications of the American National Standards Institute" if the ophthalmic products do not meet the applicable specifications of the American National Standards Institute. [Bd. of Optometry, § I subsec. C, eff. 5-26-78] — (NAC A 12-1-86; 8-4-94)

NAC 636.160 Spectacle lenses. ([NRS 636.125](#), [636.302](#), [636.380](#)) In addition to the information required pursuant to [NAC 636.150](#), the advertising of spectacle lenses must include the following information:

1. If applicable, a statement that the price for lenses may vary depending upon the purchaser's specific prescription.
2. A statement that the **advertised** lenses are clear, tinted or photochromic.
3. A statement that the **advertised** lenses are glass or plastic, single vision, bifocal or trifocal, that they are occupational or aphakic, and if the lenses are:
 - (a) Bifocal, the advertisement must state the segment size except for executive or dualens types.
 - (b) Trifocal, the advertisement must state the segment size except for executive or dualens and variable focus types.
 - (c) Occupational or aphakic, the advertisement must state that they are lenticular aspheric, lenticular nonaspheric or full-field aspheric.

[Bd. of Optometry, § I subsec. D, eff. 5-26-78] — (NAC A 12-1-86; 8-4-94)

NAC 636.170 Contact lenses. ([NRS 636.125](#), [636.302](#), [636.380](#))

1. In addition to the information required pursuant to [NAC 636.150](#), the advertising of contact lenses must include the following information:

- (a) A statement that the **advertised** lenses are hard or soft, daily or extended wear, or gas permeable.
- (b) A statement that the **advertised** lenses are single vision or ~~bifocal~~ **multifocal**.
- (c) A statement whether the price or discounted price **advertised** includes all the required accessories **and fitting and/or evaluation fees** ~~[and, if not, the cost of all the required accessories]~~.

2. Contact lenses received from a manufacturer in a package containing multiple lenses of the same prescription that are intended to be used as scheduled replacements or as disposable lenses may not be advertised for sale or sold as permanent lenses.

[Bd. of Optometry, § I subsec. E, eff. 5-26-78] — (NAC A 12-1-86; 8-4-94; 1-24-96)

NAC 636.190 Optometric examinations. ([NRS 636.125](#), [636.302](#), [636.380](#)) An advertisement of an optometric examination~~s~~, **eye exam**, **vision exam**, **eye test** or **vision test** must include a specific disclaimer if any of the following services are not included:

1. An ophthalmoscopy.
2. A subjective examination.
3. Binocularity testing.
4. A check of normal aided and unaided acuities.
5. A case history.
6. Tonometry.
7. Near-point accommodative tests.
8. Keratometry.
9. Slit-lamp biomicroscopy.

10. A refraction.

11. A dilated fundus examination.

[Bd. of Optometry, § I subsec. H, eff. 5-26-78] — (NAC A 12-1-86; 1-24-96)

NAC 636.200 Disclosure of dispensing fees. (NRS 636.125, 636.302, 636.380) If a dispensing fee is required for delivery of frames or lenses, whether ophthalmic or contact, the amount of the fee must be printed in type of no smaller size than is used for the advertised price.

[Bd. of Optometry, § I subsec. G, eff. 5-26-78]

PROFESSIONAL CONDUCT

NAC 636.210 Restrictions on use of name and place of practice; required display of license; representation as specialist without certification; employer responsible for unprofessional conduct of employee. (NRS 636.125, 636.360)

1. An optometrist shall not:

(a) Practice optometry or maintain an ownership interest in an office where optometry is practiced under any name other than the name on his or her license~~[-]~~, unless he or she has been issued a fictitious business name certificate pursuant to NAC 636.215 (1).

(b) Represent himself as a specialist in any optometric field unless he or she has been certified by a board for certifying specialties approved by the Nevada State Board of Optometry.

2. Except as otherwise provided by subsection 3, an optometrist shall display in a conspicuous place his or her license or a duplicate of his or her license to practice optometry and a current renewal card in a conspicuous manner at each office in which he or she practices optometry or has an ownership interest.

3. An optometrist may practice optometry outside his or her practice locations registered with the Board ~~[office without displaying his or her license or a duplicate of his or her license to practice optometry at that location]~~ for not more than ~~[14]~~ 28 working days during ~~[the]~~ each licensing period or renewal period ~~[from March 1 to February 29]~~ if the optometrist notifies the Board in writing of the day and place of each such practice location. The notice must be given to the Board at least 24 hours before he or she practices optometry at any such place. If the optometrist is not able to notify the Board within the prescribed period because of an emergency, he or she shall notify the Board as soon as possible.

4. An optometrist who employs another optometrist on a temporary or permanent basis ~~[is]~~ may be subject to disciplinary action for any violation of NRS chapter 636 or NAC chapter 626, including unprofessional conduct of the optometrist he or she employs which takes place during the performance of services pursuant to such employment.

[Bd. of Optometry, § II subsec. 2, eff. 5-26-78] — (NAC A 3-6-86; 5-27-92; 10-5-93)

NAC 636.215 Certificate of registration required to practice under assumed or fictitious name. (NRS 636.125, 636.350)

1. An optometrist shall not ~~[practice optometry]~~ own all or any portion of an optometry practice under an assumed or fictitious name unless he or she has been issued a certificate of registration of the assumed or fictitious name by the Board to practice optometry under the assumed or fictitious name and at a specific location.

2. Before a licensee may use or display an assumed or fictitious name in any manner or medium, he or she must submit a completed application for a certificate of registration of the assumed or fictitious name on a form provided by the Board. The application must be accompanied by documentation from the appropriate local governmental entity or entities that a registration of the assumed or fictitious business names, a “dba” registration or a ~~[issues]~~ business licenses for the county in which the optometrist proposes to ~~[practice]~~ own all or any portion of an optometry practice under the assumed or fictitious name or “dba”, which verifies

the local governmental entity has approved the use of the assumed or fictitious name or “dba” by the licensee.

3. The Board will not approve an application for a certificate of registration to practice optometry under an assumed or fictitious name which:

- (a) Contains any reference to price or cost;
- (b) Contains any reference to “superiority,” “better” or “best”;
- (c) Contains the word “physician”; or
- (d) Is in violation of any provision of this chapter or [chapter 636](#) of NRS.

4. If a licensee uses or displays an assumed or fictitious name or “dba” in any manner or medium before receiving a certificate of registration to practice optometry under an assumed or fictitious name from the Board, the optometrist:

(a) Shall, upon receipt of written notice from the Board, immediately cease using the assumed or fictitious name; and

(b) Is subject to an administrative fine imposed pursuant to [NRS 636.420](#).

(Added to NAC by Bd. of Optometry by R126-99, eff. 12-13-99)

NAC 636.220 Employment of unlicensed persons for certain services. ([NRS 636.125, 636.300](#)) A licensee shall not employ, either directly or indirectly, an unlicensed person to perform any services for which an optometrist’s license is required by law except as permitted in [NRS.XXX regarding the use of assistants](#).

[Bd. of Optometry, § II subsec. 1, eff. 5-26-78]

NAC 636.230 Compliance with provisions of NAC and NRS relating to optometry. ([NRS 636.125, 636.295](#)) For the purposes of [NRS 636.295](#), the Board will consider the failure of a licensee to comply with any provision of [NRS 636](#) or [NAC 636](#) or provision of optometric services ~~[which relates to the practice of optometry]~~ to constitute unprofessional conduct.

(Added to NAC by Bd. of Optometry, eff. 5-27-92; A 8-4-94)

~~[NAC 636.235—Violation of [NRS 636.2882](#). ([NRS 636.125, 636.295](#))—A violation of [NRS 636.2882](#) constitutes unprofessional conduct.]~~

(Added to NAC by Bd. of Optometry by R126-99, eff. 12-13-99)

NAC 636.240 Agreements to lease between licensees and unlicensed persons. ([NRS 636.125, 636.372](#)) Except as otherwise provided in [NRS 636.347](#), an agreement between a licensee and a person who is not licensed pursuant to the provisions of [chapter 636](#) of NRS for the leasing of a building or a part thereof for use in the licensee’s practice must not include a provision that:

- 1. Authorizes the person who is not licensed to exercise control over the operation of the licensee’s practice or his or her employees in violation of the provisions of [chapter 636](#) of NRS.
- 2. Authorizes the person who is not licensed to share in the profits of the licensee’s practice in violation of the provisions of [chapter 636](#) of NRS.
- 3. Authorizes the person who is not licensed to have access to the medical records of the licensee’s patients.
- 4. Authorizes the licensee to locate his or her office in a part of the building where the person who is not licensed conducts business without providing a clear separation between the licensee’s office and the business of the person who is not licensed.
- 5. Prohibits the licensee from having access to his or her office, equipment or patient records at any time.

6. Except as otherwise provided in [NRS 636.372](#), authorizes or requires the amount of rent to be determined on any basis other than the fair rental value of the building or a part thereof to be leased or of the leased premises and use of equipment materials used in the licensee’s practice.

7. Violates any provision of NRS or NAC which relates to the practice of optometry.

(Added to NAC by Bd. of Optometry, eff. 8-4-94)

NAC 636.250 Separation between office of optometry and other businesses required. ([NRS 636.125](#), [636.300](#)) ~~{A licensee who locates his office in a part of a building where a person who is not licensed pursuant to the provisions of chapter 636 of NRS conducts business shall construct and maintain a partition or wall in such a manner as to ensure a clear separation between his office and the business of the person who is not licensed.~~

~~—(Added to NAC by Bd. of Optometry, eff. 8-4-94)}~~

A licensee who locates his or her office in a part of a building where a person who is not licensed pursuant to the provisions of chapter 636 of NRS conducts an optical retail business shall construct and maintain a partition in such a manner as to ensure a clear separation and privacy between his or her office and the business of the person who is not licensed. This includes, but is not limited to, separate reception and cash drawer, appointment scheduling, patient-interfacing staff, computer systems, and physical space.

(a) This Provision expressly prohibits a non-licensed retailer from providing legal representation before the Board involving the business relationship. This Provision expressly prohibits Licensees from becoming an employee of any non-licensed individual or entity (except as allowed in *new section*: Associations or other business relationships with physicians.)

(b) This Provision expressly prohibits independent contractor relationships between Licensees and non-regulated optical retailers with the exception of those arrangements approved under the Provision of Mobile Optometry Certification.

New Section

The optometrist who owns their records must have a named successor to serve as custodian to their records should the optometrist no longer be able to maintain their practice. This custodian must be a Nevada licensed optometrist, a Nevada licensed ophthalmologist, or a company whose purpose is to serve as custodian for protected health information and distribution of records. The custodian must agree to this designation in writing on a form provided by the Board. This custodian who will be required to abide by State and Federal medical record delivery requirements and protected health information requirements.

TREATMENT OF GLAUCOMA

NAC 636.280 Requirements for certification. ([NRS 636.125](#), [636.2893](#), [NRS 636.XX](#) on glaucoma certification by endorsement) To receive a certificate to treat persons diagnosed with glaucoma pursuant to [NRS 636.2895](#) or [NRS 636.XX](#), an optometrist:

1. Must be licensed and in good standing to practice optometry in the State of Nevada.
2. Must possess a valid certificate to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents issued pursuant to [NRS 636.288](#).
3. Must have successfully passed the "Treatment and Management of Ocular Disease Examination" administered by the National Board of Examiners in Optometry ~~{on or after January 1, 1993}~~.
4. Shall submit one of the following:

(a) Shall submit proof on a written form provided by the Executive Director of the Board that the optometrist has treated at least 15 persons described in subsection 3 of [NRS 636.2893](#). The form must include:

- (~~{a}~~1) The name, address and license number of the optometrist;

(~~[b]~~) 2) ~~[The name of]~~ An HPI redacted identifier for each patient treated, the date on which the optometrist's treatment for each patient began and a description of the treatment plan which, for each patient, must be not less than 1 year in length beginning not earlier than October 1, 1999;

(~~[e]~~) 3) A statement that the optometrist has, in consultation with an ophthalmologist licensed in the State of Nevada, treated the patients in accordance with the provisions of this chapter and [chapter 636](#) of NRS;

(~~[d]~~) 4) A statement that the consulting ophthalmologist has diagnosed the patients with glaucoma or confirmed the diagnosis of the optometrist; and

(~~[e]~~) 5) The signatures of the optometrist, the consulting ophthalmologist and a notary public attesting to the accuracy of the information.

(b) Shall submit proof as required by NRS 636.XX on a written form provided by the Executive Director of the Board that the optometrist has met the requirements for glaucoma certification by endorsement. The form must include:

(1) Proof that the optometrist holds a valid and unrestricted certificate or other credential approved by the Board to engage in the treatment of a person with glaucoma issued by the optometry licensing Board of another state, the District of Columbia, the Commonwealth of Puerto Rico or any other territory or possession of the United States which the Board has determined was issued in accordance with requirements that are substantially similar to or exceed the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma in this State pursuant to NRS 636.2893;

(2) Has had no adverse actions reported to the National Practitioner Data Bank, or its successor organization, within the past 5 years; and

(3) An affidavit stating that the information set forth in the application and any accompanying material is true and correct.

5. If an applicant meets the foregoing requirements, the Board shall issue him or her a certificate to treat persons diagnosed with glaucoma.

(Added to NAC by Bd. of Optometry by R126-99, eff. 12-13-99)

NAC 636.290 Consultation with and referral to ophthalmologist; records. ([NRS 636.125](#), [636.2891](#))

1. An optometrist who treats persons for glaucoma in consultation with an ophthalmologist pursuant to [NRS 636.2891](#), [636.2893](#) and [636.2895](#) shall:

(a) Conduct ~~[an]~~ optometric examinations ~~[of]~~ as the patient requires ~~[at least once every 4 months]~~ for not less than 1 year;

(b) Provide written records of each examination of a patient and the treatment to the consulting ophthalmologist; and

(c) Refer the patient to an ophthalmologist for further examination or treatment if the ophthalmologist determines, after reviewing the written records, that such a referral is necessary.

2. Within 30 days after a consulting ophthalmologist receives the records of an optometric examination and a course of treatment from an optometrist, the consulting ophthalmologist shall notify the optometrist in writing as to whether the consulting ophthalmologist agrees to the course of treatment outlined by the optometrist.

3. During the period before an optometrist is certified to treat persons diagnosed with glaucoma, the optometrist shall not treat any patient found to have any of the conditions or complications set forth in [NRS 636.2891](#) which require referral of such patients to an ophthalmologist.

4. The records of each patient created as a result of treatment provided by an optometrist in accordance with the provisions of this section and [NRS 636.2891](#):

(a) Must be retained by the optometrist for not less than 5 years as required by [NRS 629.051](#); and

(b) Are subject to examination by the Board.

(Added to NAC by Bd. of Optometry by R126-99, eff. 12-13-99)

PRACTICE BEFORE THE NEVADA STATE BOARD OF OPTOMETRY

General Provisions

Pursuant to NRS 622A.360(4), the Board authorizes its President to decide pre-hearing motions listed in NRS 622A.360(2). If the President is unavailable, this authority is delegated to the Board's Vice President. If the President, or Vice President, as applicable, believes that the motion should be decided by the full Board, the President, or Vice President, may decline to exercise this authority and a Board meeting shall be scheduled to decide the motion at issue within the required timeframe.

Pursuant to NRS 622A.390(4), the Board authorizes its President to decide post hearing motions listed in NRS 622A.360(1). If the President is unavailable, this authority is delegated to the Board's Vice President. If the President, or Vice President, as applicable, believes that the motion should be decided by the full Board, the President, or Vice President, may decline to exercise this authority and a Board meeting shall be scheduled to decide the motion at issue within the required timeframe.

NAC 636.310 Scope. ([NRS 636.125](#)) ~~[The provisions of NAC 636.310 to 636.660, inclusive,]~~ NRS Chapter 233B, NRS Chapter 622, NRS Chapter 622A, and NAC Chapter 636 govern ~~[all practice and procedure]~~ regulation-making proceedings and contested cases before the Board ~~[whenever the Board is acting as an agency, as that term is defined in [NRS 233B.031](#)].~~

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

~~[NAC 636.320 Construction. ([NRS 636.125](#)) The provisions of NAC 636.310 to 636.660, inclusive, will be liberally construed to secure a just, speedy and economical determination of all issues presented to the Board and to carry out the purposes of chapters 233B and 636 of NRS.]~~

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

Parties

~~[NAC 636.330 Classification of parties. ([NRS 636.125](#))~~

~~—1. A party in a proceeding before the Board must be called applicant, petitioner, complainant, respondent, intervener or interested party, according to the nature of the proceeding and the relationship of the party thereto.~~

~~—2. An "applicant" is a person who is applying or petitioning for any privilege, license or authority from the Board.~~

~~—3. A "petitioner" is a person, other than a complainant, who is petitioning the Board for affirmative relief.~~

~~—4. A "complainant" is a person who is complaining to the Board of any act or of any person.~~

~~—5. A "respondent" is a person against whom any complaint is filed or investigation is initiated.~~

~~—6.— An “intervener” is a person, other than an original party to a proceeding, who may be indirectly and substantially affected by the proceeding, and who secures an order from the Board or presiding officer granting leave to intervene. The granting of leave to intervene or otherwise appear in any matter or proceeding is not a finding or determination of the Board that such party will or may be a party aggrieved by any ruling, order or decision of the Board for purposes of court review or appeal.~~

~~—7.— An “interested party” is a person who believes that he may be affected by a proceeding, but who does not seek to participate in the proceeding.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~[NAC 636.340—Participation by staff of Board. (NRS 636.125)—The Board’s staff may appear at any hearing and has the right to participate as a party to the proceeding.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~[NAC 636.350—Permissible appearances. (NRS 636.125)—At any hearing, a party named in NAC 636.330, except an interested party, is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and participate in the conduct of the proceeding. An interested party may be acknowledged by the Board for the purpose of stating his possible interest in the proceeding.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~[NAC 636.360—Entry of appearance. (NRS 636.125)—A party shall enter his appearance at the beginning of a hearing or at any time designated by the presiding officer by giving his name and address and stating his position or interest in the proceeding to the presiding officer. This information must be recorded in the record of the hearing.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~[NAC 636.370—Representation of parties. (NRS 636.125)~~

~~—1.— A party is entitled to be heard in person or by his attorney or other representative.~~

~~—2.— An attorney appearing as counsel in any proceeding must be an attorney at law in good standing and admitted to practice before the highest court of any state. If an attorney is not admitted and entitled to practice before the Supreme Court of Nevada, an attorney so admitted and entitled to practice must be associated with the attorney appearing before the Board.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

Proposed new section: Associations or other business relationships with physicians. (NRS 636.373). *An optometrist may form an association or other business relationship with a physician to provide their respective services to patients. If such an association or business relationship is formed, the Licensee and the contractual relationship must:*

(a) Comply with Internal Revenue Rulings.

(b) Be between a Licensee and an ophthalmologist licensed in Nevada.

(c) Adequately demonstrate the separation between the Parties of the relationship:

1. Maintain financial and organizational independence from each other.

2. Accurately portray the Licensee’s position within the host ophthalmologist’s organization in all advertising, marketing, and promotional materials.

3. Accurately portray the Licensee’s inclusion/exclusion within any fictitious name designation used in advertising, marketing, or promotion.

If such an association or business relationship is formed, the optometrist may:

(a) Locate his or her office in the same place of business as the physician without a physical separation between the office and the place of business, so long as the primary activity of the

host physician is the practice of ophthalmology and the Principal owner(s) of the host ophthalmology are primarily engaged in the clinical practice of ophthalmology onsite.

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

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

This section prohibits an optometrist from employing or being employed by a physician.

This section does not prohibit a Licensee from entering a partnership, joint venture, or other equity arrangement with a Nevada licensed ophthalmologist, so long as such arrangements do not diminish the Licensee's operational control of the optometric portion of the joint venture.

Associations or other business relationships with physicians (Private Equity).

An optometrist may form an association or other business relationship with a Private Equity firm or other non-licensed entity to benefit from economies of scale and increased equity value. If such an association or business relationship is formed, the Licensee and the contractual relationship must:

(a) Limit Equity Partner's role to business operational management duties including but not limited to payroll, human resources, real estate, non-health care related regulatory matters (business licensing, sales/use tax and permitting), banking, accounting, benefits administration, marketing, merchandising, occupancy, accounts payable & receivable, supply chain management, business development, administration, labor, compliance, purchasing, and medical billing.

(b) Expressly exclude Equity Partner's involvement with clinical decision making, patient scheduling, office flow management, pace, scope of practice, medical facilities, medical equipment utilization, pharmaceutical utilization, and any other decision involving the patient health care experience and the outcome of any treatment or other encounter.

New Section NAC 636.374 - It has been determined that co-management complexity is no greater for a multifocal, toric or any other "premium" intraocular lens (IOL) vs. a standard IOL. The co-management fee must be divided based on the services provided by each provider (NRS 636.374, 2.). There should be no additional co-management fee paid to the optometrist for any premium IOL above that which is approved for a standard IOL.

NAC 636.380 Service upon attorney. (NRS 636.125) Pursuant to NRS 636.375, following the entry of an appearance by an attorney for a party, all notices, pleadings and orders must be served upon the attorney and such service is effective for all purposes upon the party represented by the attorney.

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

~~—[NAC 636.390 Withdrawal of attorney. (NRS 636.125) Any attorney of record wishing to withdraw from a proceeding before the Board must, in writing, immediately notify the Board or the presiding officer, the party whom he represented and all other parties to the proceeding of his withdrawal.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

NAC 636.400 Conduct before Board. (NRS 636.125) ~~[A person appearing in a proceeding before the Board shall conform to the recognized standards of ethical and courteous conduct.]~~

All parties to hearings or other Board proceedings, their counsel and spectators shall conduct themselves in a respectful manner.

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

Pleadings, Motions and Other Papers

~~— [NAC 636.410—Captions, amendments and construction of pleadings. (NRS 636.125)]~~

~~— 1. Pleadings before the Board must be called applications, petitions, accusations or answers.~~

~~— 2. The Board may, when substantial rights of the parties are not violated, allow any pleading to be amended or corrected.~~

~~— 3. All pleadings will be liberally construed with a view to effect justice between the parties, and the Board or presiding officer will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.420—Applications. (NRS 636.125)]~~

~~— 1. A pleading requesting a privilege, license or authority from the Board must be styled an “application.”~~

~~— 2. An application must set forth the full name and address of the applicant and such facts or exhibits as may be required by statute or this chapter. An application must be signed by the applicant.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.430—Petitions. (NRS 636.125)]—A “petition” is a pleading other than an application, accusation or answer, praying for affirmative relief, including requests for declaratory orders, advisory opinions, and requests for the adoption, amendment or repeal of any regulation. A petition must set forth the full name and post office address of the petitioner and be signed by the petitioner.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.440—Verification. (NRS 636.125)]—All pleadings must be verified.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.450—Motions. (NRS 636.125)]~~

~~— 1. A motion is a request directed at the Board’s authority to act on a given subject.~~

~~— 2. All motions, unless made during a hearing, must be in writing.~~

~~— 3. All written motions must set forth the nature of the relief sought and the grounds therefor.~~

~~— 4. A party desiring to oppose a motion may serve and file a written response to the motion.~~

~~— 5. The moving party may serve and file a written reply only if an opposition to the motion has been served and filed.~~

~~— 6. A decision on the motion will be rendered without oral argument unless oral argument is requested by the Board. If oral argument is requested, the Board will set a date and time for a hearing on the motion.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.460—Filing and availability of papers. (NRS 636.125)]—An original and two legible copies of all pleadings, motions or other papers must be filed with the Board. The Board may direct that a copy of all pleadings and motions be made available by the party filing them to any other person whom the Board determines may be affected by the proceeding and who desires copies thereof.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.470—Service of process. (NRS 636.125)]~~

~~— 1. All notices, documents, advisory opinions and declaratory orders required to be served by the Board will be served by mail, and service thereof will be deemed complete when a true~~

~~copy of such paper or document, properly addressed and stamped, is deposited in the United States mail. Parties will be notified either personally or by certified mail of any adverse decision or order.~~

~~—2. All documents required to be served by a party must be served by mail, and service thereof shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

NAC 636.480 Proof of service. ([NRS 636.125](#)) Pursuant to NRS 636.375, ~~t~~**T**here will appear on all documents required to be served by the Board, other than decisions or orders, an acknowledgment of service or the following certificate, as applicable:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy in person to) (by mailing a copy, properly addressed, with postage prepaid, to)
(by e-mailing a copy, properly addressed to the person at the e-mail address on file with the Board office)

Dated at this day of the month of of the year

.....
Signature

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

~~—[NAC 636.490 Filing and contents of accusation. ([NRS 636.125](#))~~

~~—1. Upon its own initiative, or following receipt of a verified complaint, the Board may cause an accusation to be filed alleging one or more grounds for disciplinary action arising pursuant to [NRS 636.295](#). Facts constituting grounds for disciplinary action must be stated with such particularity as to enable the respondent to identify the charges against him.~~

~~—2. All applicable decisions, statutes, rules and regulations, or orders of the Board must be cited in the accusation, together with the dates on which the acts or omissions complained of allegedly occurred.~~

~~—3. If more than one cause of action is alleged, each cause of action must be stated and numbered separately.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88; A 5-27-92)}~~

Hearings

~~—[NAC 636.500 Request for hearing; filing answer. ([NRS 636.125](#))—A party or parties against whom an accusation is filed must, within 15 days of receipt of the accusation, notify the Board in writing whether a hearing on the accusation is requested. Failure to request a hearing will be deemed a waiver of the right to a hearing. However, the Board may grant a hearing notwithstanding the fact that the hearing was not requested within the 15 days allowed. If a hearing is requested, the respondent must file an answer within 20 days of receipt of the accusation.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~—[NAC 636.510 Quorum required; notice and location of hearing. ([NRS 636.125](#))~~

~~—1. Hearings will be held before the Board. A quorum of the Board is sufficient to convene any hearing.~~

~~—2. Notice of the hearing will be served at least 20 days before the time set therefor. A hearing which has previously been continued may be reset on notice of not less than 10 days.~~

~~— 3. Hearings will be held at a place in the State designated by the Board in the notice of the hearing.~~

~~— 4. Notice of the hearing will include:~~

~~— (a) A statement of the time, place and nature of the hearing.~~

~~— (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.~~

~~— (c) A reference to the particular sections of the statutes and regulations involved.~~

~~— (d) A short and plain statement of the matters asserted.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.520—Continuances. (NRS 636.125)—The Board may, either before or during a hearing, and on proper showing, grant a continuance to allow submission of additional proof of any relevant matter.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

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~~— [NAC 636.530—Failure of party to appear. (NRS 636.125)~~

~~— 1. If a party fails to appear at a hearing scheduled by the Board and no continuance has been requested or granted, the Board may hear the testimony of witnesses who have appeared and consider and dispose of the matter on the basis of the evidence before it.~~

~~— 2. If, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the Board or fails to request a continuance thereof, the party may, within a reasonable period, not to exceed 15 days after the date of the hearing, apply to the Secretary of the Board to reopen the proceedings and the Board, upon finding such cause sufficient and reasonable, will immediately fix a time and place for hearing and give such party notice thereof. At the time and place fixed, the person may testify on his own behalf or present such other evidence as may be beneficial to his cause.~~

~~— 3. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the Board.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.540—Conduct at hearings. (NRS 636.125)—All parties to a hearing, their counsel and spectators shall conduct themselves in a respectful manner.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.550—Preliminary procedure. (NRS 636.125)—The presiding member of the Board will call the proceeding to order, take the appearances and act upon any pending motions or petitions. The parties may then make opening statements.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.560—Testimony must be under oath. (NRS 636.125)—All testimony to be considered by the Board in any hearing, except matters noticed officially or entered by stipulation, must be sworn testimony. Each witness must swear or affirm that the testimony he is about to give in the hearing before the Board will be the truth, the whole truth and nothing but the truth.~~

~~— (Added to NAC by Bd. of Optometry, eff. 5-2-88)]~~

~~— [NAC 636.570—Order of presentation. (NRS 636.125)~~

~~— 1. Evidence at the hearing will ordinarily be received from the parties in the following order:~~

~~— (a) Upon petitions:~~

~~— (1) Petitioner;~~

~~— (2) Board's staff;~~

- ~~—— (3) Intervener; and~~
- ~~—— (4) Rebuttal by petitioner.~~
- ~~—— (b) Upon accusations:~~
 - ~~—— (1) Board;~~
 - ~~—— (2) Respondent; and~~
 - ~~—— (3) Rebuttal by the Board.~~
- ~~—— 2. This order of procedure may be modified by the Board or presiding board member.~~
- ~~—— 3. Closing statements by the parties may be allowed by the Board or presiding Board member.~~

~~—— (Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~—— [NAC 636.580 Consolidation of proceedings. (NRS 636.125) The Board may consolidate two or more proceedings into one hearing whenever it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by such consolidation. At any consolidated hearing, the presiding Board member will determine the order of procedure.~~

~~—— (Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~—— [NAC 636.590 Stipulations. (NRS 636.125) With the approval of the Board, the parties may stipulate as to any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statement shown upon the record. Any such stipulation will be binding upon all parties to the stipulation, and it may be treated as evidence at the hearing. The Board may require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.~~

~~—— (Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

NAC 636.600 Official notice. (NRS 636.125) In addition to the facts mentioned in subsection 5 of [NRS 233B.123](#), the Board may take official notice of regulations, official reports, decisions, orders, standards of records of the Board, and any regulatory agency of the State of Nevada or any other state or territory of the United States or any court of record.

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

~~—— [NAC 636.610 Briefs. (NRS 636.125) The Board may require that briefs be filed and accompanied by proof of service pursuant to [NAC 636.480](#).~~

~~—— (Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~—— [NAC 636.620 Orders and decisions of Board. (NRS 636.125)~~

~~—— 1. A proceeding stands submitted for decision by the Board after the taking of evidence, the filing of briefs or the presentation of such oral argument permitted by the Board.~~

~~—— 2. A decision or order which is adverse to a party in any hearing will be in writing or stated in the record and will include findings of facts and conclusions of law.~~

~~—— 3. Orders or decisions will be rendered within 90 days after the hearing unless a shorter time is required by statute.~~

~~—— 4. Decisions and orders of the Board will be served by sending a copy thereof by certified mail to the parties of record or their representatives or by personal service. Additional copies of orders may be obtained upon written request.~~

~~—— (Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~—— [NAC 636.630 Rehearings. (NRS 636.125)~~

~~—— 1. Within 15 days after the rendering of a decision or order by the Board, the aggrieved party may apply for a rehearing by filing a written petition for rehearing setting forth the grounds for rehearing.~~

~~—— 2. The Board will act upon the petition within 30 days after the effective date of the order or decision upon which the rehearing is requested. If no action is taken by the Board within the~~

~~time specified, the petition will be deemed denied and the Board's decision is final for the purposes of judicial review.~~

~~—3. The Board, on its own motion, may order a rehearing within 30 days of its decision if mistake, fraud or misconception of facts existed in the forming of its original decision.~~

~~—4. Rehearings will be conducted in accordance with the procedure for hearings.~~

~~—5. The filing of a petition for rehearing does not excuse compliance with the order or decision or suspend the effectiveness of the order unless otherwise ordered by the Board.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

~~—[NAC 636.640—Record of case. (NRS 636.125)] Upon the filing of a petition for judicial review of a final decision in a contested case, the Board will cause a record of the case to be made in accordance with subsection 6 of NRS 233B.121 for transmittal to the reviewing court in accordance with NRS 233B.131. Persons desiring copies of the record may obtain the copies from the office of the Board upon payment of the fees fixed therefor.~~

~~—(Added to NAC by Bd. of Optometry, eff. 5-2-88)}~~

Miscellaneous Petitions

NAC 636.650 Petitions for declaratory orders and advisory opinions. (NRS 636.125)

1. The Board will consider petitions for declaratory orders or advisory opinions relating to the applicability of any statutory provision, regulation or decision of the Board.

2. A[H] petition[s] for a declaratory order[s and] or an advisory opinions must be in writing on [using substantially the format of] a form prescribed by the Board.

~~[3. Upon submission of a petition for a declaratory order or advisory opinion, the Board will, within 30 days, deny the petition in writing, stating its reasons or initiate proceedings in accordance with NRS 233B.060.]~~

(Added to NAC by Bd. of Optometry, eff. 5-2-88)

New Provision: (NRS 233B.120)

1. Except as otherwise provided in subsection 2, upon receiving a petition for a declaratory order or an advisory opinion, the Board will place the matter on the agenda for discussion at the next regularly scheduled meeting of the Board.

2. If the petition is received within 30 days before the next regularly scheduled meeting, the petition may be placed on the agenda for discussion at the next meeting after that meeting.

3. At a meeting at which a petition has been placed on the agenda for discussion, the Board will consider any information relevant to the petition, including, without limitation:

(a) Oral or written testimony; and

(b) Any other evidence.

4. After consideration of the information relevant to the petition, the Board will grant or deny the petition.

5. If the Board denies the petition, no further action will be taken.

New Provision: (NRS 233B.120)

1. If the Board grants a petition pursuant to subsection 4 of New Provision 3, the Board will issue a declaratory order or advisory opinion. The President or other presiding officer shall assign one member of the Board to write the declaratory order or advisory opinion. The member so assigned has 30 days within which to submit to the Board the final draft, after reviewing comments by all members of the Board on the issue, researching the issue and seeking the assistance of the Attorney General, if necessary. Upon completing his or her draft of the

declaratory order or advisory opinion, the assigned member shall submit it to the Board for final approval at the next regularly scheduled meeting of the Board. The declaratory order or advisory opinion must be approved by a majority of the members of the Board who are present at the meeting.

2. After the Board renders its declaratory order or advisory opinion, the Board will give notice of it to the petitioner.

New Provision:

A petitioner shall comply with the provisions of a declaratory order or advisory opinion issued by the Board.

NAC 636.660 Petitions requesting adoption, amendment or repeal of regulations. ([NRS 636.125](#))

~~[1.—A petition requesting the adoption, amendment or repeal of any regulation must be in writing using the format of a form prescribed by the Board.~~

~~—2.—Within 30 days of the submission of the petition, the Board will deny the petition in writing, stating its reasons or initiate proceedings in accordance with [NRS 233B.060](#).]~~

1. Pursuant to [NRS 233B.100](#), any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation.

2. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing on a form prescribed by the Board and must include:

- (a) The name and address of the petitioner;
 - (b) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation;
 - (c) The proposed language of the regulation to be adopted, filed, amended or repealed;
 - (d) The statutory authority for the adoption, filing, amendment or repeal of the regulation;
- and

(e) Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.

3. The Board may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.

4. The Board will notify the petitioner in writing of the Board's decision regarding the petition within 30 days after the date on which the petitioner filed the petition. If the Board approves the petition for the adoption, filing, amendment or repeal of a regulation, the Board will initiate regulation-making proceedings concerning that regulation within 30 days after the date on which the petitioner filed the petition.

New Provision:

1. All licensee and applicants must report to the Board, within 30 days:

- a. Any criminal conviction or pending criminal action initiated in this State or any other state or territory or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country. Minor traffic violations are not required to be reported to the Board,
- b. Any action taken against any professional license that they possess in this State or any other state or pending administrative action initiated in this State or any other state,
- c. Any pending civil action filed against them relating to their practice as an optometrist in this State or any other state or territory or any federal court, and

- d. Any extended order for the protection against domestic violence issued against him or her pursuant to NRS 33.020, or the equivalent in the state, territory, or jurisdiction where the order was issued.
2. The Executive Director or his or her designee will review a report made under this section and investigate it in the manner used for the investigation if he or she deems necessary. The licensee or applicant may be asked for additional information about this event, and making a report as required by this section does not automatically mean the Board will take disciplinary action against the licensee or deny the pending application of an applicant. Failure to report a qualifying event under this section is grounds for disciplinary action and/or denial of an application or license renewal application, as applicable. (Added to NAC by Bd. of Optometry, eff. 5-2-88)

PRESCRIPTIONS

NAC 636.670 Contents. ([NRS 636.125](#))

1. A prescription for spectacle lenses must specify the refractive power necessary for best vision [and contain instructions concerning the times at which the lenses are to be worn].
2. A prescription for polymethylmethacrylate (Hydrophobic) contact lenses must specify the base curve, diameter and refractive power of the lenses.
3. A prescription for rigid gas permeable contact lenses must:
 - (a) Specify the base curve, diameter and refractive power of the lenses;
 - (b) Specify the:
 - (1) Brand name or manufacturer and type of lens; or
 - (2) The actual materials desired[, with their ability to transmit oxygen]; and
 - (c) State whether the prescription is for daily wear or for a stated maximum number of 24-hour periods.
4. A prescription for soft (Hydrophilic) contact lenses must:
 - (a) Specify the base curve or equivalent, diameter and refractive power of the lenses;
 - (b) Specify the:
 - (1) Brand name and type of lens; or
 - (2) The actual materials desired, with their percentage of water content and thickness; and
 - (c) State whether the prescription is for daily wear or for a stated maximum number of 24-hour periods.

(Added to NAC by Bd. of Optometry, eff. 6-15-90) — (Substituted in revision for NAC 636.720)

NAC 636.680 Contact lenses. ([NRS 636.125](#))

1. Except as otherwise provided in this section, a copy of a prescription for a ~~[polymethylmethacrylate (Hydrophobic) contact lens,]~~ rigid gas permeable contact lens or soft ~~[(Hydrophilic)]~~ contact lens issued by an optometrist following the completion of the fitting and/or evaluation must ~~[be]~~:
 - (a) be p[P]rovided to the patient~~[, upon an oral or written request from the patient]~~ as required by the Federal Trade Commission.
 - (b) be r[R]eleased to an authorized agent of the patient~~[, upon a written request from the patient]~~.
 - (c) be v[V]erified to an authorized agent of the patient~~[, upon a written request from the patient]~~.
 - (d) express the date the prescription expires.

2. An optometrist shall not release a prescription for a ~~[polymethylmethacrylate-(Hydrophobic)-contact lens,]~~ rigid gas permeable contact lens or soft ~~[(Hydrophilie)]~~ contact lens to a patient, until the optometrist has:

- (a) Conducted an initial evaluation of the fit of the lens on the eye of the patient;
 - (b) Conducted any follow-up examination that the optometrist deems medically necessary;
- and
- (c) Determined that a successful fit has been achieved.

3. An optometrist shall not fail or refuse to provide all the information necessary to duplicate accurately a **valid** prescription for a ~~[polymethylmethacrylate-(Hydrophobic)-contact lens,]~~ rigid gas permeable contact lens or soft ~~[(Hydrophilie)]~~ contact lens unless the optometrist maintains proper documentation of a sufficient clinical rationale.

4. Upon the release of a prescription for a ~~[polymethylmethacrylate-(Hydrophobic)-contact lens,]~~ rigid gas permeable contact lens or soft ~~[(Hydrophilie)]~~ contact lens, no changes may be made in the brand or type of lens prescribed **or dispensed** without the issuance of a new prescription. A new prescription to make changes in the brand or type of lens prescribed must not be issued unless an optometrist has completed any evaluations or examinations that the optometrist deems medically necessary for such changes.

5. After the release of a prescription for a ~~[polymethylmethacrylate-(Hydrophobic)-contact lens,]~~ rigid gas permeable contact lens or soft ~~[(Hydrophilie)]~~ contact lens, the prescriber is not liable for any future changes in the fitting or dispensing of the lens by another source.

~~—[6.— If a patient requests the release of a prescription for a [polymethylmethacrylate-(Hydrophobic)-contact lens,] rigid gas permeable contact lens or soft [(Hydrophilie)] contact lens before [an optometrist] the patient has completed any evaluation or examination that the optometrist deems medically necessary, the optometrist may release a prescription for an ophthalmic lens [which must indicate that the prescription is not approved for contact lenses in the manner set forth in NRS 636.387].~~

(Added to NAC by Bd. of Optometry by R215-03, eff. 4-23-2004)

MISCELLANEOUS PROVISIONS

~~[NAC 636.700— Mailing of fees and documents to Board. (NRS 636.125)— Any fee or document:~~

~~—1.— That is required or permitted by the provisions of this chapter or chapter 636 of NRS to be filed with or paid to the Board or its staff; and~~

~~—2.— That is mailed to the Board, must be sent by registered or certified mail.~~

~~—(Added to NAC by Bd. of Optometry, eff. 6-15-90)]~~

NAC 636.710 Referral bureaus for optometrists. ([NRS 636.125](#))

1. A licensee shall not permit himself **or herself** to be listed with a referral bureau for optometrists unless the bureau complies with the provisions of this chapter and [chapter 636](#) of NRS.

2. A referral bureau shall maintain listings for at least five optometrists. None of these persons may have a business relationship with any of the others.

3. Unless there is a request for an optometrist who is located in a specific geographic area or is able to speak a certain language, all referrals by a referral bureau must be made on a rotating basis so that each optometrist listed with the bureau receives approximately the same number of referrals.

4. The telephone number of the referral bureau must not be the number of the office, residence or answering service of any optometrist listed with the bureau.

5. A record of each referral must be made by the bureau and maintained by it for at least 1 year after the referral is made. The record must include the date and time of the referral, the name and address of the person referred, and the name of the optometrist to whom the person was referred. The record must be made available upon request for inspection by any optometrist listed with the bureau or any representative of the Board.

(Added to NAC by Bd. of Optometry, eff. 6-15-90)

NAC 636.730 Certification to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents. ([NRS 636.125](#), [636.287](#))

1. The Board shall provide a certificate to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents ([CAPPA](#)) to each optometrist who:

(a) Is licensed to practice optometry in the State of Nevada and is in good standing.

(b) Has successfully completed the "Treatment and Management of Ocular Disease Examination" administered by the National Board of Examiners in Optometry [or it's equivalent](#) ~~[on or after January 1, 1993]~~. The Board must receive verification that the person successfully completed the examination from the testing agency.

(c) Submits a form which meets the requirements set forth in subsection 2 and which states that the optometrist successfully completed a training program of not less than 40 hours of clinical training in administering and prescribing ~~[therapeutic]~~ pharmaceutical agents which was:

(1) Conducted by an ophthalmologist who is licensed and in good standing in any state, territory or possession of the United States;

(2) Comprehensive in nature and covered the use of all classes of ~~[therapeutic]~~ pharmaceutical agents which may be administered or prescribed pursuant to [chapter 636](#) of NRS~~;~~

~~(3) Practical in nature and had a primary focus on the examination of patients; and~~

~~—— (4) Structured to maximize the interrelationship between the doctor and the patient, emphasizing one-on-one interaction between the doctor and the patient].~~

2. Upon completion by an optometrist of a training program which meets the requirements of paragraph (c) of subsection 1, the ophthalmologist who conducted the program shall, on a form provided by the Executive Director of the Board, certify under penalty of perjury that the optometrist named on the form satisfactorily completed the training program. [Additionally, o](#)~~On the same a related~~ form, the named optometrist shall certify under penalty of perjury that he [or she](#) completed the training program and satisfies all of the other requirements for certification to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents. The certifying signatures of the ophthalmologist and optometrist must be notarized.

3. The form provided by the Executive Director of the Board pursuant to subsection 2 must:

(a) Set forth the requirements for the training program described in this section;

(b) Contain the certifications for the ophthalmologist and optometrist which are required by this section; and

(c) Provide space and appropriate designations for the notarization of the signatures of the ophthalmologist and optometrist.

(Added to NAC by Bd. of Optometry, eff. 3-28-96)

[Additional Proposed new sections:](#)

[1. Mobile Optometry Certification](#)

[1. Shall not be construed to apply to "vision screenings", where no subjective refraction, interpretation, diagnosis or treatment are being performed by the licensed optometrist.](#)

2. “Underserved”: The Board of Optometry shall adopt a definition of “medically underserved” as it applies to optometric services not less than every 4 years based upon objective data regarding access to optometrists and the adequacy of available services for the population. The Board may use the term as it is defined by the *Officer of Rural Health of the University of Nevada School of Medicine, or its successor, or may use another data source, or a combination of data sources to make its determination.*
3. Define that there may be either: 1) a physical mobile optometric clinic, or 2) a mobile optometrist that travels, ie. to nursing homes.
4. Require there to be a physical address (not a P.O. Box) associated with the mobile clinic, and other requirements for issuance and renewal.
5. The medical records belong to the doctor performing the examinations, NOT the clinic.
6. Shall keep a log of all locations and dates when services were rendered
2. Jurisdictional Review of Complaints: Allow ED to reject complaints that do not meet the requirements for a complaint, do not fall under our jurisdiction or that do not allege violations of NRS 636 or NAC 636, allowing the ED to direct the complainant to a more appropriate state or federal Board or organization, and relieving the Board from consideration of such complaints. Do we need ability for Board reporting and oversight to these determinations.
3. The optometrist who performs an examination owns the medical record if they are performing services as an independent contractor at a location not owned by another optometrist. If providing services as an employee, the record belongs to the employer.

Pursuant to NRS 636.143, the Board will charge and collect the following fees:

...

All fees submitted to the Board are non-refundable.

Initial application: \$75.00 (+ prorated quarterly \$750 for 2 year license, includes certificate);

Endorsement application: \$375+\$75 (includes 2 year license, application fee and certificate)

2 year Renewal: active license and one practice location: \$750.00

2 year Renewal, each additional location: \$200.00

2 year renewal mobile optometry clinic: \$600.00

2 year renewal, inactive license: \$500.00

Activation of current inactive license: \$250.00

For both active and inactive license renewals, your complete renewal form, continuing education compliance information and proper fees must be submitted bearing a postmark on or before February 28th of each year to avoid suspension.

Reinstatement of license suspended for non-renewal after February 28th: \$750 renewal fee, plus additional locations as applicable. \$500 late fee if postmarked between March 1st and date of suspension.

After the reinstatement period, the license and any related certifications expire. To practice again in the state, the optometrist must reapply.

Additional fees:

Mobile Optometry Fees: initial application \$75, and prorated quarterly \$750; \$750 for 2 year renewal.

Certificate to Administer and Prescribe Pharmaceutical Agent (CAPPA) Application \$75
Nevada Glaucoma Certification Application \$175
Add a practice location (includes duplicate certification) \$200
Fictitious Name or DBA Registration \$50 (one time per location)
Change of practice address \$25
Letter of good standing \$25
Replacement license certificate \$75
Replacement location card \$25

6. Policy Number 2: change in location of practice

NRS 636.370 and this policy require each optometrist to notify the Board of the place of his or her practice or any change in location of that practice, in writing prior to the date the change becomes effective.

7. Policy Number 5 & 6: license renewal

Pursuant to NRS 636.250, a licensee (active or inactive) must renew his or her license by March 1 of each even-numbered year. For renewal by mail to be timely, the United States Postal Service must postmark it before March 1. Electronic renewal is effective upon receipt of all required information and fees. It is the renewing licensee's responsibility to confirm receipt of renewal materials.

If a license is not renewed by March 1 of even-numbered years, the license will be suspended. A license may be relieved from suspension if the licensee renews before July 1 and pays a penalty of \$250.00 as authorized by NRS 636.285, plus the renewal fee. If the license renewal is received after June 30 of the even-numbered year and before January 1 of the following odd-numbered, a \$500 penalty will attach to relieve a license from suspension. As of January 1 of the following odd-numbered year, the license will expire, and if the former licensee wishes to practice in Nevada, he or she must apply as though no previous licensure existed.

Pursuant to NRS 636.250, a licensee must renew his/her license by March 1 of each even-numbered year. License renewal requires a completed renewal application, fees, and proof of appropriate Continuing Education based on license and certification requirements.

8. Policy 7, 11: CE requirements

NRS 636.260[2] requires the renewal fee and satisfactory evidence that the licensee, within the 24-month period immediately preceding license renewal, has completed the required number of hours of continuing education approved by the Board.

The continuing education requirements for licensees certified in diagnostic pharmaceutical agents may not exceed 40 hours per 24-month period. The Board has established 40 hours as the requirement for licensees who are certified in diagnostic pharmaceutical agents, of which 5 hours may be practice management. All of the 40 hours may be by live attendance, by Internet, correspondence or

video. Licensees submitting courses taken via the Internet, correspondence or video must submit proof they received a grade of 75% or higher on the course exam.

The Board counts hours in 0.25-hour increments using the 1/4 hour nearest the actual teaching time, with the exception that 50-minute lectures are counted as one hour in accord with academic tradition.

The requirement for licensees who are certified in pharmaceutical agents may not exceed 50 hours per 24-month period. The Board has established 50 hours as the requirement for licensees who are certified in pharmaceutical agents. Of the 50 hours, not fewer than 30 hours must be pharmaceutical agent or disease related. Up to ten hours may be practice management. Any or all of the 50 hours may be completed by live attendance, or by Internet, correspondence or video. Licensees submitting courses taken via the Internet, correspondence or video must submit proof they have received a grade of 75% or higher on the course exam.

The Board reviews pre-approved providers periodically to verify adherence to established standards and hours for reporting. The Board has established two categories of acceptable and approved continuing education:

1. Pre-approved – This category requires the licensee to submit a signed or verified Continuing Education Attendance form or the ARBO/OE Tracker summary through which attendance is certified. Other certifications may be submitted. Certification can be by stamp or signature. A list of pre-approved providers appears in policy.

*Note: a maximum of 10 continuing education hours will be allowed for any 24 hour period.

2. Other – Other providers will be approved on an individual basis. Such providers may submit the course syllabus or programs in advance for approval or may be considered when the licensee submits a CE Summary Form. The licensee will receive notice from the Board only if the course is not approved.

A licensee shall not report or submit his/her continuing education information to the Board until the licensee has sufficient hours to fulfill the total requirements for the license year. Interim submission of continuing education will not be accepted.

9. Policy 8 - accredited colleges of optometry

Pursuant to NRS 636.135, only certain schools and colleges of optometry are accredited by the Nevada Board of Optometry. The Board shall rely on the Accreditation Council on Optometric Education (ACOE) for information regarding accreditation.

10. Policy 10

NRS 636.350 requires that each licensee, prior practicing under an assumed or fictitious name, must be issued a certificate from the Board. The Fictitious Name Application must be approved before the licensee commences using the assumed or fictitious name. Any licensee practicing at a medical or surgical facility who

applies for registration of an assumed or fictitious name to be used at the facility must include his/her professional designation in the name.

11. Policy 12

The Board shall maintain in an account, separate from its operating account, liquefiable funds estimated to be sufficient to pay the operating expenses of the Board for a thirteen (13) month period.

MEETING MATERIALS

Exhibit 2

***LEGISLATIVE REVIEW OF PROPOSED REGULATIONS:
SMALL BUSINESS IMPACT STATEMENT***

***LEGISLATIVE REVIEW OF PROPOSED REGULATIONS:
SMALL BUSINESS IMPACT STATEMENT***

In early July 2019, the Board distributed copies of AB 77 as enrolled and the Board's draft amendments to NAC Chapter 636 via email to each active and inactive holder of a license to practice optometry in the state of Nevada, comprising over 500 individuals. The Board invited feedback via telephone, email and mail, and received an encouraging response.

On July 30, in Reno the Board held an in-person forum at a restaurant in Reno NV to collect feedback on its proposed regulatory changes. Approximately 17 optometrists and others participated. Then, the Board held a state-wide telephonic open forum during which any licensee or other interested person was invited to speak up. Numerous licensees participated, including 15 callers in the telephone event. The Board also received numerous emails offering suggestions.

The public response to the regulatory process related to AB 77 was overwhelmingly positive, but several important perspectives came to light during the discussions. All in all, after every comment was heard and considered, Dr. Smith summarized the input and made recommendations at the August 8, 2019 Board Meeting. After some discussion, the Board voted unanimously to forward the regulations to the Legislative Counsel Bureau for review and drafting.

While waiting for the drafted regulations, Board staff undertook an email survey to determine the small business impact of the changes.

The Board hopes to consider the results of the survey, the LCB version of the changes to its regulations, and few other issues to be ready to put the new regulations into place before the license renewal season, which begins in November 2019.

Anyone interested in participating in the small business impact survey and development of the resulting small business impact statement may contact cjenkins@nvoptometry.org.

MEETING MATERIALS

Exhibit 3

Small Business Impact data Survey Results

Responses to 09/10/2019 Optometry Board Small Business Impact Survey - 7.6% of surveys were returned.

1.

NUMBER OF EMPLOYEES

0 (2 responses)

1

2

6

22

Over 150

2.

Will any specific regulations have a direct adverse economic effect upon your business?

Yes. The new Section NAC 636.374 restricts co-management fees for co-managing advanced/ complicated cataract surgery cases. This new section prevents optometrists from being fairly paid for their professional services. It is important to note that Assembly Bill No. 77 did not include any of the language in the new Section 636.374 and it is not reasonable to conclude that the additions are the based on the intent of the bill. My practice is at risk to lose \$200,000 over the next 10 years because of this regulation.

Yes. NAC 636.126 and NAC 636.300 First, this will be a HIPPA violation if a patient doesn't want the custodian I choose. Am I going to have to pay some entity for years to come to maintain my records? If I don't have a custodian on file, am I in violation? Has this section been added to enable a business to be created to make money off maintaining private doctors' records after they retire? It seems only to affect those in individual practice- they retire. Those in group clinics will not have the same burden.

No.(4 remaining responses)

3.

Will the regulations have any direct beneficial effects upon your business?

Yes. The glaucoma certification by endorsement will be a very beneficial change.

Yes. The new definition of pharmaceutical agent allows optometrists to serve a greater number of patients.

No. (4 remaining responses)

4. **Do you anticipate any indirect adverse effects upon your business?**

Yes. The new section that addresses private equity in optometry could permanently and adversely change optometric private practice in Nevada. It essentially allows entities that are not licensed to practice optometry in Nevada the ability to employ optometrists. This was definitely not included in assembly Bill No. 77 and it directly conflicts with existing NRS 636.300 - which prohibits employment of optometrists by a person that is not licensed to practice optometry in Nevada. This newly created NAC will result in a flood of entities not licensed to practice optometry in Nevada enter our state and control and employ optometrists.

Within a few years, I surmise that most optometry practices will be owned by out of state corporations and business entities that surely do not place the good care of the patients and citizens of Nevada as a primary concern. Because of the intense commercial competition this new section will generate, my private practice may not be able to survive in its current successful, highly professional, and profitable state. Optometry will be changed from a professional and respected profession to a commercialized job.

No. (5 remaining responses)

5. **Do you anticipate any indirect beneficial effects upon your business?**

Yes. In many ways the new regulations will broadly allow optometrists to better serve the people of Nevada, increasing the quality of care given.

No. (5 remaining responses)

MEETING MATERIALS

Exhibit 4

***For Possible Action.**

*Consideration and approval of the **minutes** of June 25, 2019 and August 5, 2019 Optometry Board meetings.*

NEVADA STATE BOARD OF OPTOMETRY



CHEN K. YOUNG, O.D.
Board President

MARIAH SMITH, O.D.
Board Vice-President

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Executive Director
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JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

MINUTES - DRAFT

THE NEVADA STATE BOARD OF OPTOMETRY REGULAR MEETING

University of Nevada Reno/System Computing Services Building, Room 47
1664 N. Virginia Street/Bldg. 133
Reno, NV

and by videoconference with:

University of Nevada Las Vegas/System Computing Services Building, Room
102
4505 S. Maryland Parkway
Las Vegas, NV

Tuesday, June 25, 2019 at 9:30 a.m.

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

President Young confirmed video and audio connection between Carson City, and Las Vegas, and video connection for member Drew Johnson from Montana. 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 9:36 a.m. at the UNR System Computing Center in Reno. All Board members attended including Member Johnson via video, along with staff: Caren C. Jenkins, Executive Director, Laura Adair, Licensing Specialist, Senior Deputy Attorney General Sarah Bradley, Board Counsel and AG Interns Nikki Rossetta and Shannon Kallin.

Also present were optometrists Eric Brooker, O.D., Steve Girisgen, O.D. Harlan Kopelow, O.D., and Cheryl Adlington, O.D., members of the NV Optometric Association, Mike Hillerbee, NOA lobbyist, and member of the public Paul Heggen.

3. **For Possible Action- Minutes.** Consideration and approval of the minutes of Optometry

Board meeting held on May 21, 2019. (Materials provided.)

Dr. Smith moved to approve the minutes as presented, seconded by Dr. Austin. Approved unanimously.

4.* For Possible Action - Hearings. (Materials provided.)

a.* Determination of Just and Sufficient Cause to investigate and hear:

i. Complaint No. 19-26

The redacted complaint was reviewed for just and sufficient cause to move forward to investigate this matter. Dr. Smith moved to dismiss Complaint No. 19-26 based on insufficient allegations, seconded by Dr. Austin. Approved unanimously.

ii. Complaint No. 19-27

The redacted complaint was reviewed for just and sufficient cause to move forward to investigate this matter. Dr. Austin moved to dismiss Complaint No. 19-27 based on insufficient allegations, seconded by Dr. Smith. Approved unanimously.

iii. Complaint No. 19-28

The redacted complaint was reviewed for just and sufficient cause to move forward to investigate this matter. Dr. Smith moved to dismiss Complaint No. 19-28 based on insufficient allegations, seconded by Mr. Johnson. Approved unanimously.

b.* Rehearing of Case No. 18-19, alleging that Erik Brooker, O.D., Lic. No 439, improperly represented himself in optometric advertising, promoted himself as a LASIK surgeon, and other matters relating to the Case on file. Rehearing granted May 21, 2019.

Ms. Jenkins gave a brief summary regarding the complaint and noted that she has been in discussion over a period of months with Dr. Brooker regarding the violations. Because Dr. Brooker has admitted to the violations, Ms. Jenkins determined that an evidentiary hearing was unnecessary. Dr. Brooker asked for an opportunity to explain his perspective on the matter.

Dr. Brooker addressed the board and stated that he misunderstood the complaint process, that he thought it had been dismissed. He apologized to the board, and acknowledged that the website was his responsibility, even though the information was posted without his knowledge. He offered a copy of the letter from the website producer taking responsibility. Dr. Brooker stated that he had his website revised since the initial notice and now has better control over its content. Ms. Jenkins offered to review his website to ensure that the representations conform to NRS 636 and NAC 636.

Dr. Brooker requested the Board reduce his penalty to either a warning or reduced fee.

Dr. Smith asked Dr. Brooker to clarify certain wording regarding LASIK surgery appearing on the website, as she found it misleading. Dr. Austin noted that the website identifies Dr. Brooker as a specialist and states that he is fellowship trained, though Dr. Austin confirmed that Dr. Brooker is not.

Dr. Brooker agreed to work with Ms. Jenkins to make the changes that had been addressed.

Dr. Austin stated that even though the website has been updated since the meeting in January, it is still not completely truthful. For example, it appears that Dr. Brooker's colleague, Dr. Roth, is certified in glaucoma in NV. Although the website infers that he holds NV certification, he is, in fact, certified in glaucoma only in CA.

Dr. Brooker responded that some of the information from the prior version of his website was transferred over and he had not yet had the opportunity to review.

Dr. Young stated that it is not the board's intention to review every optometrist's website, but there are multiple areas that are in violation. He suggested to Dr. Brooker that he take the website offline and work with Ms. Jenkins to revise the material before going live.

Ms. Jenkins added that Advanced Vision Institute is Dr. Brooker's business name, however this is promoted as providing all services as listed on the website in conjunction with ophthalmologists.

Mr. Johnson stated that Dr. Brooker's web designer, NeONBRAND, does not specialize in websites for optometrists and would have needed to receive the wording directly from the optometrist. He added that Dr. Brooker seems to lack accountability for the advertising and promotion.

Dr. Smith moved that Dr. Brooker, based on the proposed stipulation:

- (1) Take his website offline and work with Ms. Jenkins on making changes as necessary;
- (2) Shall be assessed the same \$2,000 fine to be paid within 14 days of entry of the order, and;
- (3) No additional fine shall be imposed regarding additional violations.
Revised website can then be placed back online once approved.

Dr. Brooker agreed to remove the website until changes are made and approved by the board. The motion seconded by Dr. Austin and passed unanimously.

5.* **For Possible Action - Board Reports & Actions.**

- a.* **Ch. 568, 2019 Statutes of Nevada (AB 77) and the Administrative Regulation Process** presented by Mariah Smith, O.D., Vice-President & Legislative Subcommittee Chair (Materials provided.)

President Young reminded the board of the regulatory reprieve imposed in January 2019 and the reprieve can be lifted once the regulations are revised. Ms. Jenkins estimated that the approval process for the proposed regulations will take about 6

months.

Dr. Smith summarized the changes to statute and the NAC regulation revisions proposed.

Ms. Jenkins asked if the board would benefit from defining “optometric examination” into the general provisions, as this is a term used in statutes. She added the board needs to distinguish between a vision screening and an optometric exam, especially in light of the recent expansion of telemedicine.

Mr. Johnson suggested that instead of listing each service that may include an exam, to simply add a disclosure for services that do not fall under a full optometry test.

Dr. Austin clarified that screenings can be performed by a mobile van or school nurse, for example, however a full eye exam and treatment plan can only be performed by an optometrist.

Dr. Kopolow asked if the patient is screened and has no diagnosis would this still be considered an optometric exam.

Dr. Austin responded that each patient must have a diagnosis code, even if nothing abnormal is found and no treatment is required.

Dr. Cheryl Adlington asked if a screener is permitted to recommend anything over the counter such as artificial tears or blue-blocker readers.

Dr. Smith responded that these types of recommendations would be problematic and probably inappropriate without a diagnosis.

Ms. Bradley will review what the board scope is according to the LCB and make a recommendation regarding this. She also suggested new language be revised to say “he or she” or simply “applicant.” Also she suggested a policy be drafted to direct Executive Director or designee to review, reject or approve license applications, with parameters.

Ms. Jenkins asked the board if optometrists need to define eyeglasses or lenses that may not meet current standards. Dr. Smith confirmed that this language is included in the regulations.

Dr. Austin suggested that the language “ocular solutions” be changed to “pharmaceutical agents”.

Ms. Jenkins suggested signage posting requirements be revised to require full name that appears on his/her license for identification. After board discussion, the decision was made to just include at least the last name.

Dr. Adlington asked if it would be possible for the board to maintain a list of other names optometrists may use; for example aka nicknames and

maiden names.

Also Ms. Jenkins asked if optometrist name must be listed for the purchase of eyeglasses. Dr. Smith clarified that fictitious name requirement only applies to the owner/optometrist and suggested doing some education on this for clarification. Ms. Jenkins confirmed that the full name or registered fictitious name is required for each optometrist.

Dr. Girisgen commented that if an optometrist is affiliated with another brand's logo that is larger than the name, this may pose an unfair competitive advantage with marketing. Mr. Johnson commented that there should not be size limitations on logo.

Ms. Ogden of the NOA added that most brands have standards and guidelines regarding size of the logo and other requirements.

Dr. Kopolow commented that the size limitation helps preserve optometrists' independence from other large brands.

Dr. Kopolow asked if there is a current standard with ANSI for retail eyeglasses. Dr. Smith confirmed that there is and language will add be added into the regulations. Dr. Austin clarified that while it is not illegal to sell eyewear below standards, it is required to be disclosed to the patient.

Dr. Girisgen asked if all fees need to be disclosed in advertising, and is it permissible to indicate that fees may vary based on complexity. Dr. Smith responded that there can be a range of optometry service fees instead of listing individual fees, and will revise language.

Dr. Smith revised fill-in day language to clarify that optometrists have 14 fill-in days per year before displaying the required location card. Ms. Jenkins suggested wording be revised to 28 days per renewal period. Mobile optometry will be limited to serving specific patient populations per the new statute.

Ms. Jenkins asked if the employer/owner should be named as a Respondent, in addition to the optometrist, if the board receives a patient complaint. Dr. Young suggested new language to state that they may be responsible, and stressed that an individual licensee has a professional responsibility even if working as an employee.

Dr. Young stated fictitious name language needs to be clarified to state each owner registered with NV Secretary of State must hold certificate at each specific location.

Ms. Jenkins offered that a wall may not be necessary if there is a clear separation. Language can be revised to state "shall maintain a clear separation".

Dr. Girisgen suggested the board further define what separate is. The

board has already ruled that main reception is not enough. A patient is either on the retail or doctor side, they cannot be both. Also HIPPA needs to be considered. Dr. Young suggested that clarification is required. Mr. Johnson suggested that the board research how other states have handled this issue, and perhaps ARBO may have some information.

Ms. Jenkins suggested new language regarding patient records. There have been incidents where an optometrist suddenly passes away or closes their practice, making it impossible to obtain patient records. Ms. Bradley and others discussed possible encouragement rather than requirement.

Regarding the addition of glaucoma by endorsement, Dr. Austin asked how the board will determine what education is substantially similar to the Nevada requirements. Dr. Smith stated that new CA optometry school graduates are automatically glaucoma-certified and are no longer required to take the course. Ms. Jenkins suggested the board implement requirements similar to the current glaucoma requirements; co-management of a certain number of patients, etc. Ms. Bradley stated that other boards define substantially similar by listing accredited schools or specific education/training. Language should state patients can't be treated alone and must be co-managed with ophthalmologist in pursuit of their certificate.

Dr. Kopolow asked what percentage of optometrists are glaucoma certified. Ms. Jenkins responded currently it is approximately 15-20%. Dr. Austin commented that he would like to see the process of obtaining a glaucoma certificate less stringent, however unfortunately the board is limited by statute. Perhaps language can be revised to state that they can be treated in consultation with ophthalmologist, to be in accordance with the statute. Dr. Austin asked now that the board is offering glaucoma by endorsement, will the board need to verify endorsement applicants through the National Practitioner database?

Ms. Jenkins responded that the cost is about \$6 per applicant and can be added to the applicant fee. When glaucoma by endorsement was initially proposed, the language did not specify whether or not they are applying with 5 years of actively practicing in another state.

Dr. Smith noted that the section regarding new assistant language may not need to be broken down, but perhaps the board can communicate that certain tests such as the Goldman test, performed to check eye pressure, be noted as noninvasive.

Regarding mobile optometry clinic certification, applicants are not required to be a licensed optometrist, however any optometrist may name this as their practice location.

There was discussion of CE requirements, and whether the board should require a portion of CEs be live versus online, or interactive and set a maximum number of allowable hours within a 24 hour period. Ms. Jenkins

suggested a policy to encourage interactive CEs. The board agreed to allow no more than 10 hours per day of CEs. The board also made the decision to reinstate Optocase and Queens University's continuing education.

Ms. Jenkins stated that the NV OSLE will need to be revised and Dr. Young requested that Dr. Austin begin the process. However, until the regulations are approved, the test cannot be finalized.

Ms. Jenkins will continue to work with Dr. Smith on regulation revisions and will then compile a draft for a public regulation workshop.

b.* Agency-related legislation from 2019 Legislative Session
presented by Board Counsel Deputy Attorney General Sarah Bradley, Esq.
(Materials provided.)

Ms. Bradley summarized the handout regarding regulatory board-related bills that may have an effect on the optometry board. One bill pertains to public records requests and recovery of expenses; itemized list is required, overtime is an option. New legislation requires boards to maintain a list of what is determined as confidential that is not already confidential by statute. If board has litigation, the board can appeal a case. Ms. Bradley said that boards can now accept Taxpayer Identification Numbers and no longer require Social Security Numbers. Ms. Bradley advised the board to put together a public records policy.

Ms. Jenkins stated that Computer Corps is contracted with the State to accept used electronic computer equipment. They delete the information and either refurbish or recycle.

c.* Board determination of 2019-2020 Fee Schedule (Materials provided.)

Ms. Jenkins referred to page 97 of the meeting materials regarding current and proposed fee schedule, and there was discussion of what the most appropriate and fair fees may be. Ms. Jenkins added that the new legislation will now allow the board to prorate new license fees quarterly. The new statutes changed the renewal period to two years during even years, opposite from the legislative cycle. Dr. Smith gave a comparison of other states licensing fees. Ms. Bradley advised the board to place a list of fees in the regulations for the LCB. Mr. Johnson suggested that it would be helpful to review and compare other states fees regarding the new mobile optometry licensing.

d.* Executive Director's Report

i. Lifting the Regulatory Reprieve.

Ms. Jenkins requested the reprieve that was imposed in January of 2019 be lifted, however the board prefers to wait until the regulations are in place. This will be discussed further at the next board meetings scheduled for August and September.

ii. NBEO's NV OSLE (Online State Law Exam) project-approach?

Dr. Austin will work with Ms. Jenkins to begin revising certain sections of the exam to reflect the regulatory changes, to be continued as the regulations become approved. The board will continue testing on the current version until the regulations are approved.

iii. Ideas for outreach regarding statutory changes - What is the Board's Role?

Various options were suggested including workshops, emailing newsletters, placing AB77 on the website, working with the NOA and placing additional information on the website. Ms. Jenkins stated that it is important to note that interpretation is the role of attorneys.

iv. Website revision project.

Ms. Jenkins stated that significant revisions of the registration forms will need to be revised. Ms. Jenkins will be working with Ms. Adair on creating new forms in compliance with the law. Other website topics were discussed such as information regarding the employer/employee relationship, and misconduct. Mr. Johnson has begun the process by submitting his suggestions to the current website pages.

v. Staff direction re: expiration of Licensee work visas.

Ms. Jenkins asked Ms. Bradley for guidance on confirming whether a licensee is required to be a U.S. citizen. The board currently has a few licensees that have work Visas that will be expiring. Ms. Bradley responded that she will research whether a board is allowed to revoke a license due to citizenship status. Ms. Bradley responded that she will research whether the board is required to maintain citizenship, or if this is only an initial requirement.

vi. Authorization to change banks holding operating funds and Board reserves.

Ms. Jenkins stated that Heritage Bank and Nevada State Bank are charging an inactivity fee. Possible options were discussed including transfer to each other or change to another bank. Dr. Smith entertained a motion to authorize Ms. Jenkins to change to an FDIC banking entity located in NV, seconded by Dr. Austin, all approved.

Per the request of the board for information purposes only, Ms. Jenkins proposed four scenarios and estimated fee amounts to retain a lobbyist year round, versus paying out a one-time fee during the legislative session. This issue can be brought up in the future for a decision on whether there should be modification of the budget.

The next board meeting will be a regulatory workshop in July.

6. Announcements and **requests for future Board consideration** (No action to be taken).
 - a. 2019-2020 BOARD MEETING SCHEDULE.

Ms. Jenkins referred to last page of meeting materials with list of tentative possible future⁹⁴²

board meeting dates for 2019-2020. The next meeting is proposed for Tues. Sept. 10, 2019 at Noon. The next in-person live meeting is proposed for January 7, 2020 in LV.

7. Public Comment.

Dr. Kopolow asked if there is a written provision requiring an optometric assistant to be supervised by the optometrist. Also, regarding the optometrist being required to provide contact lens prescription, he noted that the FTC requires optometrist to allow 8 hours to respond to a contact lens Rx, however companies are not abiding by this and the FTC is not enforcing this.

Dr. Smith stated that this requirement is written in the statute. Ms. Jenkins stated that this can be discussed further at the stakeholders meeting.

8.* For Possible Action. Adjournment.

Dr. Austin moved to adjourn, seconded by Dr. Smith. The meeting was adjourned at 4:10 p.m.

NEVADA STATE BOARD OF OPTOMETRY



CHEN K. YOUNG, O.D.
Board President

MARIAH SMITH, O.D.
Board Vice-President

Post Office Box 1824
Carson City, Nevada 89702
Telephone: (775) 883-8367
Facsimile: (775) 305-0105

CAREN C. JENKINS, ESQ.
Executive Director
cjenkins@nvoptometry.org

JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

MINUTES - DRAFT

The Nevada State Board of
Optometry
telephonic meeting

Thursday August 8, 2019 at 12 Noon

Welcome, Introductions and **Public Comment**.

Board President Chen Young, O.D. opened the agenda and asked whether any participants on the call wished to offer public comment. No public comment was offered..

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

Dr. Young called the meeting to order at 12:02 p.m. via telephone conference. All Board members were in attendance, along with staff: Caren C. Jenkins, Executive Director, Laura Adair, Licensing Specialist. Also in attendance were Senior Deputy Attorney General Sarah Bradley, Board Counsel, and Jeannette Belz, Lobbyist. Other persons on the call failed to identify themselves.

2. ***For Possible Action.** Consideration and approval of the **minutes** of June 25, 2019 Optometry Board meeting. (Materials provided)

This agenda item was tabled for approval at the next board meeting.

3. ***For Possible Action. Reports and Recommendations.**

- a. Consideration and approval of proposed modifications to NAC Chapter 636, Mariah Smith, O.D., Legislative Changes Project Chairperson.

Dr. Smith presented detailed information and a progress report on all of the input received for changes to Ch. 636 of NAC. After her presentation of the written materials and other comments, she made a motion to approve all proposed changes to the regulations, including fees, and including any amendments accepted in the meeting. Dr.

Austin seconded, none opposed, motion carried.

b. Outreach and Education Planning, Jeffrey Austin, O.D., Chairperson. Dr. Austin noted that he is working on the project with NOA and the Executive Director to update licensees, update the online law exam and getting “sound bites” to optometrists so they have a reference tool.

c. Website revision efforts, Drew Johnson, Chairperson.

Member Johnson gave the status on making website revisions and has been working with Ms. Adair to revise the website to be a more searchable database to include general information including fact pages and a clearer public records policy

d. Executive Director’s Report, Caren C. Jenkins, Esq., Executive Director.

1. Future Distribution of Location Cards. Ms. Jenkins discussed the costs/benefits of in-house production of the cards versus an outside provider and deferred to the board to determine whether to continue producing cards or making them available only electronically. Member Johnson suggested an “opt-in” transition period to allow the optometrists to choose to receive a hard card rather than only a digital version..

2. Closing a Practice or Death of Licensee - Patient Records dilemmas.

Ms. Jenkins discussed the option of designating a trustee to hold patient records. The board advised that this be a recommendation to our licensees. The Board might want to bring this issue to the attention of licensees.

3. Interim Operations. Dr. Austin has agreed to begin the NV OSLE exam revisions, to be revised further when the Board approves the final regulations.

4. ***For Possible Action. Complaints before the Board.** (Materials provided)

a. Complaint No. 18-17 Status of compliance with Order.

Ms. Jenkins confirmed that as of the meeting date, complainant had not yet complied with order to pay the \$2,000 fine that was due by August 5th. Member Johnson made a motion to order complainant to pay an additional \$50 per day beginning on the due date, and to automatically suspend the licensee’s optometry license for a period of 14 days or until the penalties are paid in full, whichever is longer.

Dr. Austin seconded motion, all in favor, none opposed.

At 1:36 p.m. Dr. Smith left meeting and at 2:09 p.m. Member Johnson left. The three complaints below were tabled until the next meeting, as the Board no longer held a quorum.

b. Complaint No. 20-01 Consideration of just cause to investigate.
This matter was tabled until the next meeting.

c. Complaint No. 20-02 Consideration of just cause to investigate.

This matter was tabled until the next meeting.

d. Complaint No. 20-04 Consideration of just cause to investigate.

This matter was tabled until the next meeting.

5. Announcements and requests for **future Board consideration** (No action taken at this meeting).

No comments offered.

NEXT BOARD MEETING: Scheduled for noon on Sept. 10, 2019 by telephone.

6. **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.

No public comment was offered.

7. Adjournment. Dr. Young adjourned the meeting at 2:11 p.m.

MEETING MATERIALS

Exhibit 5

Executive Director's Report, Caren C. Jenkins, Esq., Executive Director.

Revision of forms & website

- Agencies
- Jobs
- About Nevada



Nevada State

Board of Optometry

Biennial Renewal

**For Licensing Period 3/1/2020 through
2/28/2022**

- NEVADA STATE BOARD OF OPTOMETRY



- Post Office Box 1824
- Carson City, Nevada 89702
- Telephone: (775) 883-8367
- Facsimile: (775) 305-0105
- E-Mail: admin@nvoptometry.org

• APPLICATION FOR OPTOMETRY LICENSE RENEWAL

THE FOLLOWING QUESTIONS MUST BE COMPLETED AND THE APPLICATION MUST BE SIGNED. FAILURE TO ANSWER THE QUESTIONS

AND/OR SIGN THE FORM WILL RESULT IN THE DENIAL OF YOUR APPLICATION, AND THE RETURN OF YOUR RENEWAL DOCUMENTS.

- timestamp

1563197624

- In support of my application for renewal of my license to practice optometry in the State of Nevada, by my signature at the conclusion of this application I,*

- License Number*

- state my responses herein are true to the best of my knowledge and ability:
- 1. Are you currently obligated by Court Order for the payment of child support?*
- ☐ Yes
- ☐ No
- 2. Are you current in your obligations under any Court ordered child support?*
- ☐ Yes
- ☐ No
- 3. Between March 1st, 2019 and the date of this application, has the DEA disciplined your certification, or have you ever voluntarily surrendered it, allowed it to lapse, or had a limited certificate issued?*
- ☐ Yes
- ☐ No
- 4. Do you have or have you ever had any licensing jurisdiction, DEA or a state drug enforcement authority take disciplinary action against you?*
- ☐ Yes
- ☐ No
- 5. Have you been issued a Nevada Pharmaceutical Agent certificate?*
- ☐ Yes
- ☐ No
- 6. Have you registered for a Nevada PMP Account?*
- ☐ Yes
- ☐ No
- 7. Have you been convicted of any drug or alcohol related offense by a Court of competent jurisdiction between March 1st, 2018, and the date of this application?*
- ☐ Yes
- ☐ No
- 8. Do you have a Nevada business license in compliance with the provisions of NRS Chapter 76?*
- ☐ Yes

-
- 9. Do you also hold a fictitious Name Certificate? If so, please verify Name.
- No
- 9. Have you ever served in the Military?*
- Yes
- No
- Choose From Below Options*
- RENEW AN ACTIVE LICENSE (\$750.00 for 1 practice location, \$200.00 for each additional)
- RENEW AN INACTIVE LICENSE (\$500.00)
- *To submit your Continuing Education please [CLICK HERE](#) or go to For Optometrists, CE Summary Form, and attach all necessary documents.
- Total

\$0.00

- *Once we have reviewed and approved your renewal application and required CE's, we will send via email your electronic location cards. If you would like a more durable wallet card option, you may submit an additional request through our website link at;

<https://nvoptometry.org/request-for-location-change/>

☐

- ☐ By submitting this information and checking this box, I affirm that each document is complete and correct and that all information contained in this submission is true under the pains and penalties of perjury and the requirements of NRS Chapter 636 and NAC Chapter 636 and Nevada law generally. I also acknowledge that if I have directed or authorized a person to complete or submit this information on my behalf, I, the optometrist licensed by the Nevada Board of Optometry, am fully responsible for the content of the submission.
- Name*

First

- Date*

- Billing Address*

Street Address City State ZIP Code

- Credit Card

NEVADA STATE BOARD OF OPTOMETRY
CE FACT SHEET 2019

DRAFT

The current Continuing Education reporting period is from 3/1/19 to 2/28/20.

- For this license renewal year, all licensees must submit proof of having completed
 - 18 CE hours (if you do not hold a certificate for pharmaceutical prescribing), or
 - 30 CE hours (if you are pharmaceutical agent certified). Of these hours, at least 15 must be related to pharmaceutical agents.
- Up to 5 CE hours may pertain to practice management.
- CE hours may be completed by live attendance, via Internet, correspondence or video.
- If you received your Pharmaceutical Agents Certificate or TPA during the current license year, your 40-hour preceptorship may be applied to the CE requirements. Please complete a CE Summary form with your renewal and note your TPA or Pharmaceutical Agent Certificate date.
- If you are certified to prescribe Nevada pharmaceutical agents and hold a DEA# and CS#, you must have an active PMP account **and** complete a minimum of 2 opioid-related CE hours for each renewal period. These hours count toward your overall CE requirement. Category 1 CME credit related to this topic will be automatically accepted for the opioid requirements only.

Your 2022 renewal following the license period beginning 3/1/2020 will require reporting more Continuing Education credits.

- All licensees must complete 40 CE hours each renewal period. Ten additional CE hours are required for licensees certified to prescribe pharmaceutical agents.
- NRS 636.2881 requires 2 hours of CE related to the **misuse and abuse of controlled substances, the prescribing of opioids or addiction** during each period of licensure if the optometrist holds a OPAC, a DEA # and a CS #. The Board has determined that optometrists may attend a Category 1 CME to fulfill this requirement, if desired. These CE credits may be counted toward the total CE credits required for renewal.

ADDITIONAL CE INFORMATION:

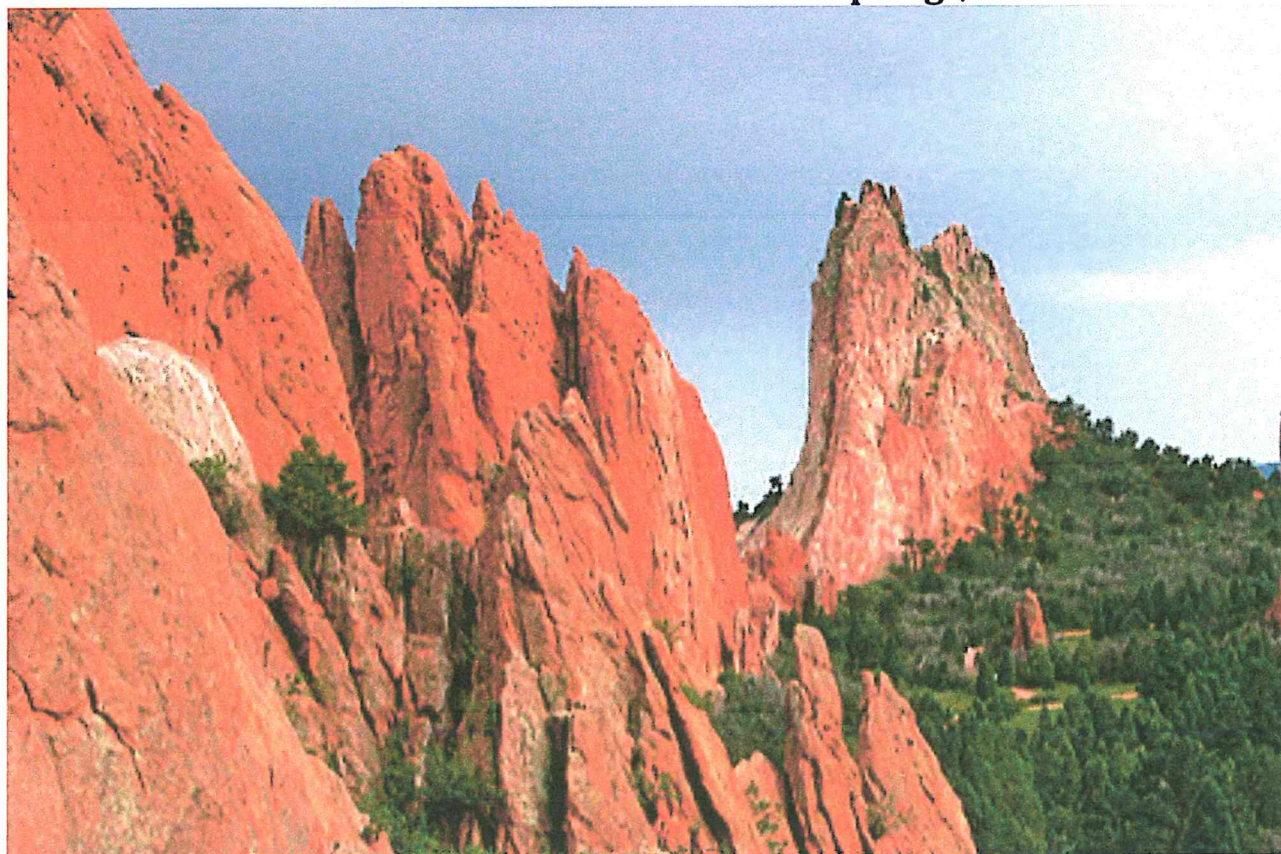
- CME is NOT preapproved for CE except for the 2 hours of opioid related coursework.
- The Board will accept **any** COPE approved coursework.
- A list of pre-approved CE providers appears in the Board Policies.
<https://nvoptometry.org/board/policies/>
- The Board reviews pre-approved providers periodically to verify adherence to established standards and hours for reporting.

MEETING MATERIALS

Exhibit 6

FARB Forum, Colorado Springs, Jan 23-26. 2020

2020 FARB Forum - Colorado Springs, CO



Welcome to the 2020 FARB Forum Registration Page

The 44th Annual FARB Forum will be held on January 23-26, 2020 at The Antlers - Colorado Springs in Colorado Springs, Colorado. The 2020 FARB Forum will bring together leading experts from across the country to discuss the latest developments in professional regulation. This exceptional educational program delivers the tools and information needed to ensure the efficient and effective operation of state regulatory boards. Designed for board members, board administrators, investigators and board attorneys, the Forum is educationally driven and includes sessions related to administering state professional licensing boards. If you have any questions concerning registration, please email membersupport@FARB.org

Who will Benefit?: Board members, board attorneys, board investigators, and board staff will find the content applicable to their everyday regulatory work.

Why Attend?: Regulators across jurisdictions face similar dilemmas, challenges, and learning curves. This conference will increase knowledge and expertise/competence in being a regulator.

What Will be Gained?: The FARB Forum is an intensive dive into regulatory concepts, practical applications, and collaborative networking experiences designed to build your expertise in regulation.

2020 Forum Agenda Topics

20/20 Vision: A Vision for the Future of Smart Regulation

The 2020 FARB Forum will focus on perspectives from various stakeholders with an eye toward understanding these differing visions. The historical role of government in the regulation of the trades, occupations and professions must be examined as a means of identifying necessary involvement and anticipate political changes. Why is government involved and when might the private sector fulfill the needs of the consuming public? Further, as we look to the future, how might state-based regulatory systems change under increasing technological advancements and the evolution of virtual practice? The Forum will explore these progressive concepts using speakers with differing perspectives. Attendee

participation is encouraged.

Topics will include:

The Past: Where Have We Been?

Why Government: Lets Focus on All Perspectives: Consumers, Policy Makers, Regulators, Students, Applicants, Licensees and more!

Audits of Regulatory Boards: Recent Government Generated Reports

The Deregulation Perspective: Where Economics and Public Protection Collide

Immunity: Government Negligence in the Issuance of a License. Is the Bubble Bursting?

Licensure Eligibility Criteria: Reconciliation & Rehabilitation

Pre-Licensure Conduct & Criminal History: Changing Views

Certificates of Qualification for Employment: Shades of Clarity

Generational Perspectives: Regulatory and Consumer Evolution

Delegation of Authority & Separation of Powers: Who's in Charge?

Physical & Virtual Presence: Minimum "Contact" Lenses

The Future: Where are We Going?

2020 Forum Agenda *Approximate schedule, subject to change

Thursday, January 23, 2020 ~ OPTIONAL SESSION (ADDITIONAL FEE REQUIRED)

3:00 pm - 7:30 pm Comprehensive Regulatory Training (CRT)

Dinner Included

Friday, January 24, 2020

7:30 am Breakfast

8:30 am Sessions/Presentations

12:00 pm Lunch

1:15 pm Sessions/Presentations

5:00 pm Recess for the Day

5:30 pm - 7:30 pm FARB Reception

Saturday, January 25, 2020

7:30 am Breakfast

8:45 am Sessions/Presentations

12:15 pm Recess for the Day - Enjoy Colorado Springs!

Sunday, January 26, 2020

7:30 am Breakfast

8:30 am Sessions/Presentations

11:30 am Adjourn - Safe Travels!

For a complete agenda and detailed conference information, download our conference brochure.

Comprehensive Regulatory Training (CRT)

Attendees have the option to attend a four-hour Comprehensive Regulatory Training (CRT) on Thursday evening. This interactive session is designed to provide comprehensive training for board members, staff, investigators, attorneys and other stakeholders in the regulatory community. The CRT course content has been developed to cover all aspects of regulation and board operations, including scope of authority, responsibilities, conflicts of interest, immunity, discipline and outreach. The CRT experience is derived from adult learning principles which actively engage all participants in exchange of information, discussion, and small group activities. Attendees are able to attend the CRT without registering for the entire conference. We encourage boards to send multiple participants to this interactive training experience.

Continuing Legal Education

FARB seeks approval for credits through the Illinois Minimum Continuing Legal Education (CLE). We anticipate attendees may earn up to 12 CLE credit hours at the Forum. Attendees may earn up to an

additional 4 hours of CLE credit if attending the optional Comprehensive Regulatory Training (CRT) session. Attendees must complete required MCLE reporting information, including attendance tracking and evaluations, and request CLE certificates in a timely manner. Other professions may also use FARB courses for continuing education. Attendees are responsible for submitting required information to their appropriate jurisdictions as necessary.

Reservations

FARB has reserved a block of rooms at The Antlers - Colorado Springs specifically for Forum attendees. Please make your reservations early, as only a limited number of hotel rooms will be available until the cut-off date of Friday, January 3, 2020, or until the group block is sold out, whichever comes first. Hotel reservations made after this date are subject to availability and rate increase.

Attendees are responsible for securing their own hotel reservations. Please refer to the FARB group when making hotel reservations to receive the reduced room rate of \$149.00 per night plus tax. Reservations may be made by contacting the Antlers - Colorado Springs directly:

The Antlers - Colorado Springs

4 S. Cascade Avenue

Colorado Springs, CO 80903

Reservations: 866-299-4602

[Click here to make your reservation online.](#)

Ground Transportation

Attendees are responsible for transportation to/from the airport. Colorado Springs offers many options in ride share and ground transportation.

CANCELLATION POLICY

Notification of cancellation MUST be made in writing and sent to FARB via U.S. mail, e-mail (FARB@FARB.org), or fax.

Refunds:

If a cancellation is received in writing on or before Wednesday, January 15, 2020, FARB will:

1. Refund the paid registration fee less a \$50 processing charge
 2. Charge the registrant a \$50 processing charge if the registration fee has not been paid
- Any registrants cancelling after Wednesday, January 15, 2020, will be charged the full registration fee
- In need of assistance? Please contact the Meetings Coordination Team:

Registration & Membership:

Anna Urbanczyk & Madelyn Ledford

FARB Member Support

Membersupport@FARB.org

Ph: 847-559-3272

Hotel Reservations:

Margo Adams Larsen

Meetings Coordination Team Leader

Meetings@FARB.org

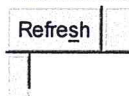
Please note: You must be logged in to your FARB account to register. If you are registering someone else you must be logged into the attendee's account. Please contact FARB if you need assistance with your FARB account.

When

1/23/2020 - 1/26/2020 11:59 PM

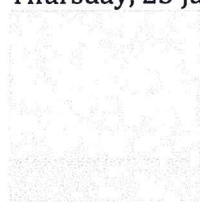
Where

The Antlers - Colorado Springs 4 S. Cascade Avenue Colorado Springs, CO 80903



Program

Thursday, 23 January 2020



Description

2020 Forum Comprehensive Regulatory Training (Optional)

Attendees have the option to attend a four-hour Comprehensive Regulatory Training (CRT) on Thursday evening. This interactive session is designed to provide comprehensive training for board members, staff, investigators, attorneys and other stakeholders in the regulatory community. The CRT course content has been developed to cover all aspects of regulation and board operations, including scope of authority, responsibilities, conflicts of interest, immunity, discipline and outreach.

Time

3:00 PM - 7:30 PM

1/23/2020 3:00 PM

Refresh	Register	Unregister	Delete registration option	Save function response	Register from waitlist	Register from waitlist
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Sign In

Username Required

Password Required

[Sign In](#)

[Forgot username?](#) | [Forgot password?](#)

[Create a new account](#)



Contact Us

The Federation of Associations of Regulatory Boards
1466 Techny Road
Northbrook, Illinois 60062
(847) 559-3272
FARB@FARB.org

MEETING MATERIALS

Exhibits 7-12

***For Possible Action. Complaints before the Board.**

- a. *Complaint No. 20-01 Consideration of just & sufficient cause to investigate.*
- b. *Complaint No. 20-02 No Jurisdiction (Executive Director recommendation).*
- c. *Complaint No. 20-04 No Jurisdiction (Executive Director recommendation).*
- d. *Complaint No. 20-06 Proposed Stipulated Settlement.*
- e. *Case No 20-07, Petition for Declaratory Order regarding the propriety of optometrists engaged in advertising & promotion opportunity.*
- f. *Amendment of Stipulated Settlement, Consolidated Case Nos. 19-05 and 19-11.*

[WordPress 5.2.2](#) is available! [Please update now.](#)

Unlicensed Plugin. Please purchase a Gravity Forms license

ID: 13

entry 1 of 24

Hola! Would you like to receive automatic updates and unlock premium support? Please [activate your copy](#) of Visual Composer.

[Edit](#)
[Settings](#)
[Entries](#)
[Preview](#)

Complaints Form : Entry # 4640 show empty fields Entry

Complainant(s)

Mailing Address

Daytime Phone

Optometrist/Subject of Investigation/ Respondent

Dr. 2, O.D.

Date(s) of Incident

06/20/2019

Edit

Print ☒ include notes

What law(s) in NRS Chapter 636 or NAC 636, or others, do you believe were violated?

Summary of Issues: (Please attach additional pages as needed and a copy of any evidence supporting your claims)

I was referred to Dr2,OD by Dr1,MDfor a pair of "loaner glasses" to use for a week until the LASIK surgery was scheduled. I went to her office and she re-examined me to prescribe the glasses. She and Dr 1 kept mentioning how "strange" my prescription was but she had the "exact prescription" in stock. After a couple hours and a shot at an up sell she was going to charge me \$225.00 for the glasses and that was after insurance. I didn't want to pay that much for something that was only going to be used for a week so they started negotiating and in the end they decided

Did you contact the Optometrist or the office they practice at regarding this complaint?

We wrote a yelp review on her page but did not contact her office as Dr 1's office issued me a refund.

Did the Optometrist or the office respond?

No

Were there any witnesses to the incident? If so, Please provide name(s), address(es), and phone number(s)

Yes. Jessica

What would you consider a satisfactory resolution to this Complaint?

Revoked License

Name, address, and phone number of any consulting or subsequent Doctor treating the issue

Dr

If a formal charge is filed as a result of this Complaint, are you willing to testify under oath at a public hearing?

Yes

I,

- By submitting this information and checking this box, I affirm that each document is complete and correct and that all information contained in this submission is true under the pains and penalties of perjury and the requirements of NRS Chapter 636 and NAC Chapter 636 and Nevada law generally.I also acknowledge that if I have directed or authorized a person to complete or submit this information on my behalf, I, the Complainant, am fully responsible for the content of the submission.

Name

Date

07/02/2019

Comments

They would charge me \$150.00 plus tax if we just paid cash.
After reading reviews for the LASIK doctor we decided to cancel the surgery and go with a different doctor. The new doctor redid the consultation and determined that the "strange prescription" that she gave me was completely wrong.
Dr 1 and Dr 2 are in a romantic relationship and are in cahoots to get money out of patients who don?t know any better and trust them.
After we wrote a yelp review on both pages my fiancé got a call from at Dr office offering us \$250.00 as a refund for the glasses and to take down her yelp reviews and had me sign a piece of paper that she wouldn?t speak about it on Social Media.
Why would D 1 be refunding me for something that Dr 2 prescribed?

- I have read all questions, answers and statements and know the contents thereof. I hereby certify, under penalty of perjury, that the information furnished in this Complaint is true, accurate and correct.

Notes



Add Note

Also email this note to

1. M.D., do declare, affirm, and state as follows:

1. I am a surgeon in Las Vegas, Nevada, specializing in Lasik and lens-based (cataracts) surgeries. I am board certified by the American Board of Ophthalmology. I practice medicine at

M.D.'s practice

2. On or around June 29, 2019, I agreed to issue payment to a patient in the amount of \$250 for the patient to delete social media posts concerning M.D.'s practice, as well as to not post any future comments. In addition, the patient and his wife had made a scene at my practice, disturbing my business. I paid the patient the \$250 as a business decision to avoid any future harm to my business. I did not consult Dr. O.D. or otherwise make any financial arrangements with Dr. O.D. paying the \$250. Attached hereto is an agreement that the patient signed memorializing this arrangement.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

FURTHER, AFFIANT SAYETH NAUGHT:

Signature of M.D.

06/29/2019

In consideration for the reimbursement of \$250, I (and family members) agree to delete any social media posts concerning M.D.'s practice. I also agree in the future not to post any comments on social media platforms concerning M.D.'s practice.

Signature
of patient

Signature
of M.D.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521



Rachakonda D. Prabhu, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director

RECEIVED

JUL 11 2019

July 9, 2019

Re:

We have received your complaint; however, for the reason(s) indicated below, we either cannot investigate your complaint as stated, or we do not have jurisdiction to investigate:

- ☐ You have not identified a health care provider (a person).
- ☒ The person you identified is NOT a licensee of this Board.
- ☒ No jurisdiction. Your complaint has been forwarded to the listed agency, who we believe has jurisdiction. A copy HAS been retained by us.

Nevada State Board of Optometry, O.D.
PO BOX 1824
Carson City, NV 89702

- ☐ No jurisdiction. NRS 630 (the Medical Practice Act) does not cover (provide us with jurisdiction over) the situation you describe, and we cannot identify any agency which might have jurisdiction.
- ☐ This case has already been investigated under case #.
- ☐ We are unable to read and understand your complaint. Please resubmit a copy stating specifically what your complaint is.
- ☐ Other:

If you have any questions about this determination, please write or call at the contact information provided below. In State Toll Free: (888) 890-8210 or Out of State (775) 688-2559.

Investigations Division, Intake, Nevada State Board of Medical Examiners.

Samantha M. Hendricks

From: shendricks@medboard.nv.gov
Sent: Friday, July 05, 2019 3:29 PM
To: Samantha M. Hendricks
Subject: Complaint

RECEIVED**JUL 08 2019**NEVADA STATE BOARD OF
MEDICAL EXAMINERS

Data from form "Complaint Form" was received on 7/5/2019 3:28:41 PM.

Complaint Form

Field	Value
Complainant_Name	
Complainant_Gender	
Complainant_Phone	
Complainant_Address	
Complainant_City	
Complainant_State	
Complainant_ZipCode	
Patient_Name	
Patient_Gender	
Patient_BirthDate	
HCPProfessional1_Name	
HCPProfessional1_Address	
HCPProfessional1_City	
HCPProfessional1_State	
HCPProfessional1_ZipCode	
HCPProfessional1_Phone	
HCPProfessional2_Name	
HCPProfessional2_Address	
HCPProfessional2_City	
HCPProfessional2_State	
HCPProfessional2_ZipCode	
HCPProfessional2_Phone	
HCPProfessional3_Name	
HCPProfessional3_Address	
HCPProfessional3_City	

246

Field	Value
HCPProfessional3_State	
HCPProfessional3_ZipCode	
HCPProfessional3_Phone	
Occurrence_Date	07/05/19
Treatment_PhysicianOffice	true
PhysicianOffice_Name_Address	
Treatment_Hospital	false
Hospital_Name_Address	
Treatment_OtherFacility	false
OtherFacility_Name_Address	
SecondOpinion_Obtained	No
SecondOpinion_PhysicianName	
SecondOpinion_PhysicianAddress	
SecondOpinion_Diagnosis	
Complaint_Summary	Eye drops for dilation were initially administered to the patient by an assistant; no hand washing proceeded and multiple objects were touched prior to administration. After approximately 10 min entered the room and closed the door to begin the evaluation. shook the hand of the parent also in the room, accessed his computer, adjusted his apparatus, and began evaluating the patient's He stated that the eyes needed further dilation and administered two more eye drops and said that we would have to wait a few more minutes. He then exited and came back several minutes later. He entered and closed the door, then directly proceeded to touch the patients face around the eye (no hand washing prior). He then performed all except the two portions of his evaluation without stopping except to adjust and move various machines and instruments. He went back to his computer to view photos and type up documentation. Dr explained the next portion of the evaluation would require use of a little instrument that would be applied directly to the eye. He then pulled the instrument out of his pocket and went right into the next portion of the evaluation, continuing to touch the patients face and eyes with his hands and the instrument. At no point in time were gloves used. The doctor then went back to his computer to type and view photos and explained the need for the last portion of the exam. Upon seeing the parent's discomfort he asked if everything was okay. The parent then proceeded to explain anger and discomfort that the doctor had at no time washed his hands prior to touching the patient despite touching multiple objects and thenn patients face and inside the patient's eye. Dr. listened to the complaint and explained he had washed his hands before entering the room and the objects in the room are cleaned regularly. The parent then said "I am a healthcare provider and you do not touch a patient without

Field	Value
	washing your hands first. You have touched the door and computer and multiple objects and never washed your hands." The doctor then said "You're right, I apologize. Given what has occurred I think we should not do the lens portion today." He explained he needed to apply a lens directly into the eye for the final portion of the examination but considering the events that had happened he would not finish the exam and recommended a referral to another specialist to finish the exam. The patient left with very dilated eyes without resolution or full diagnosis.
Attestation	true
Date_Submitted	07/05/19

Email "Complaint" originally sent to shendricks@medboard.nv.gov from shendricks@medboard.nv.gov on 7/5/2019 3:28:41 PM.

20-04
RECEIVED
JUL 22 2019

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Rachakonda D. Prabhu, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

July 16, 2019

Re: OD

We have received your complaint; however, for the reason(s) indicated below, we either cannot investigate your complaint as stated, or we do not have jurisdiction to investigate:

- ☐ You have not identified a health care provider (a person).
- ☒ The person you identified is NOT a licensee of this Board.
- ☒ No jurisdiction. Your complaint has been forwarded to the listed agency, who we believe has jurisdiction. A copy HAS been retained by us.

Nevada State Board of Optometry, O.D.
P.O. Box 1824
Carson City, NV 89702

- ☐ No jurisdiction. NRS 630 (the Medical Practice Act) does not cover (provide us with jurisdiction over) the situation you describe, and we cannot identify any agency which might have jurisdiction.
- ☐ This case has already been investigated under case #.
- ☐ We are unable to read and understand your complaint. Please resubmit a copy stating specifically what your complaint is.
- ☐ Other:

If you have any questions about this determination, please write or call at the contact information provided below. In State Toll Free: (888) 890-8210 or Out of State (775) 688-2559.

Investigations Division, Intake, Nevada State Board of Medical Examiners.

Samantha M. Hendricks

From: shendricks@medboard.nv.gov
Sent: Friday, June 28, 2019 5:24 PM
To: Samantha M. Hendricks
Subject: Complaint

RECEIVED

JUL 01 2019

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

Data from form "Complaint Form" was received on 6/28/2019 5:23:51 PM.

Complaint Form

Field	Value
Complainant_Name	
Complainant_Gender	
Complainant_Phone	
Complainant_Address	
Complainant_City	
Complainant_State	
Complainant_ZipCode	
Patient_Name	
Patient_Gender	
Patient_BirthDate	
HCPProfessional1_Name	
HCPProfessional1_Address	
HCPProfessional1_City	
HCPProfessional1_State	
HCPProfessional1_ZipCode	
HCPProfessional1_Phone	
HCPProfessional2_Name	
HCPProfessional2_Address	
HCPProfessional2_City	
HCPProfessional2_State	
HCPProfessional2_ZipCode	
HCPProfessional2_Phone	
HCPProfessional3_Name	
HCPProfessional3_Address	
HCPProfessional3_City	01. 221
HCPProfessional3_State	

Field	Value
HCPProfessional3_ZipCode	
HCPProfessional3_Phone	
Occurrence_Date	06/14/2019
Treatment_PhysicianOffice	true
PhysicianOffice_Name_Address	
Treatment_Hospital	false
Hospital_Name_Address	
Treatment_OtherFacility	false
OtherFacility_Name_Address	
SecondOpinion_Obtained	No
SecondOpinion_PhysicianName	
SecondOpinion_PhysicianAddress	
SecondOpinion_Diagnosis	
Complaint_Summary	During patient intake, reception lady asked me to sign HIPAA privacy acknowledgment and right after requested to TELL her mine and my husband social security numbers with bunch of people right behind me and when I told her that I can not tell her but will be happy to write it down, she was visibly displeased. Exam itself didn't include refraction fine tuning on phoropter AT ALL - doctor simply selected two 'paper enclosed' lenses for glasses imitation and asked me which of them better for comfortable reading. Then, doctor for 2 min checked manually my eyes for any diseases and I left. Later when I checked the invoice they submitted to insurance - for the exam it was contained two charges - 160\$ charge for exam itself and separate billing for refraction 65\$. I went to different optometrist and after they made glasses according to his prescription, it's ended up being all wrong.
Attestation	true
Date_Submitted	06/14/2019

Email "Complaint" originally sent to shendricks@medboard.nv.gov from shendricks@medboard.nv.gov on 6/28/2019 5:23:51 PM.

BEFORE THE NEVADA STATE BOARD OF OPTOMETRY

Caren C. Jenkins, EXECUTIVE DIRECTOR
NEVADA STATE BOARD OF OPTOMETRY,

Complainant,

CASE NO. 20-06

vs.

OPTOMETRIST "A",

COMPLAINT

Respondent.

COMES NOW, Caren C. Jenkins, Executive Director of the Nevada State Board of Optometry, and pursuant to NRS 636.295, complains of the above-named respondent as follows:

1. Complainant is the Executive Director of the Board of Optometry of the State of Nevada (the "Optometry Board");

2. Respondent is an optometrist duly licensed in the State of Nevada, having been issued a license by the Optometry Board in 2002.

3. NRS 636.350 Certificate of registration required to practice under assumed or fictitious name; regulations, provides:

1. An optometrist shall not practice optometry under an assumed or fictitious name unless the optometrist has been issued a certificate of registration by the Board to practice optometry under an assumed or fictitious name.

2. An optometrist who applies for a certificate of registration to practice optometry under an assumed or fictitious name must submit to the Board an application on a form provided by the Board.

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

(a) Comply with the provisions of [chapter 602](#) of NRS; and

(b) Display or cause to be displayed near the entrance of his or her business the full name of the optometrist and the words or letters that designate him or her as an optometrist.

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

5. As used in this section, "assumed or fictitious name" means a name that is not the real name of each person who owns an interest in a business.

[82:208:1955] — (NRS A [1999.1915](#))

4. Further, NAC 636.215 Certificate of registration required to practice under assumed or fictitious name. (NRS 636.125, 636.350) provides:

1. An optometrist shall not own all or any portion of an optometry practice under an assumed or fictitious name unless he or she has been issued a certificate of registration of the assumed or fictitious name by the Board to practice optometry under the assumed or fictitious name and at a specific location.

2. Before a licensee may use or display an assumed or fictitious name in any manner or medium, he or she must submit a completed application for a certificate of registration of the assumed or fictitious name on a form provided by the Board. The application must be accompanied by documentation from the appropriate local governmental entity or entities that a registration of the assumed or fictitious business names, a "dba" registration or business licenses for the county in which the optometrist proposes to own all or any portion of an optometry practice under the assumed or fictitious name or "dba", which verifies the local governmental entity has approved the use of the assumed or fictitious name or "dba" by the licensee.

3. The Board will not approve an application for a certificate of registration to practice optometry under an assumed or fictitious name which:

- (a) Contains any reference to price or cost;
- (b) Contains any reference to "superiority," "better" or "best";
- (c) Contains the word "physician"; or (d) Is in violation of any provision of this

chapter or chapter 636 of NRS.

4. If a licensee uses or displays an assumed or fictitious name or "dba" in any manner or medium before receiving a certificate of registration to practice optometry under an assumed or fictitious name from the Board, the optometrist:

(a) Shall, upon receipt of written notice from the Board, immediately cease using the assumed or fictitious name; and

(b) Is subject to an administrative fine imposed pursuant to NRS 636.420.

(Added to NAC by Bd. of Optometry by R126-99, eff. 12-13-99)

5. On or about September 5, 2019, the Complainant found that Respondent's website

included a business name that she believed had not been registered with the Board. A copy of the webpage as it appeared on that date is attached hereto as Exhibit A.

6. Complainant obtained Respondent's licensure file and determined that no application for registration of an assumed or fictitious name had been submitted to the Board related to that assumed or fictitious name.

7. NRS 636.420 provides that any person found to have violated any provision of NRS 636 is liable to the Board for an administrative fine of not less than \$100 or more than \$5000.

IT IS THEREFORE PRAYED THE BOARD FIND:

1. Respondent violated NRS 636.2350;

2. Respondent violated NAC 636.215;

3. Respondent should have discipline imposed according to the Board's findings, and be ordered to pay an administrative fine between \$100 and \$5000, and

4. Other discipline should be imposed as the Board deems just.

DATED September 9, 2019.

_____/s/_____
Caren C. Jenkins, Esq.

NOTICE

You may respond to the complaint, or propose resolution by providing the Optometry Board your written response on or before September 23, 2019, either by mail at Post Office Box 1824, Carson City, Nevada 89702 or by email to cjenkins@nvoptometry.org.

The Board will consider this complaint and your response, if any, and determine whether action is warranted at its next regular public meeting scheduled for October 1, 2019 by telephone. The public is invited to attend.

AFFIDAVIT OF SERVICE

I, CAREN C. JENKINS, ESQ., on Monday, September 9, 2019,, emailed the foregoing to Respondent's email of record, XXXXXXXXXXXX@XX.XXX, on the date listed below,

I declare under penalty of perjury that the foregoing is true and correct.

Date: September 9, 2019

Signature /s/

EXHIBIT A TO COMPLAINT No. 20-06



Like Follow Share ...

Call

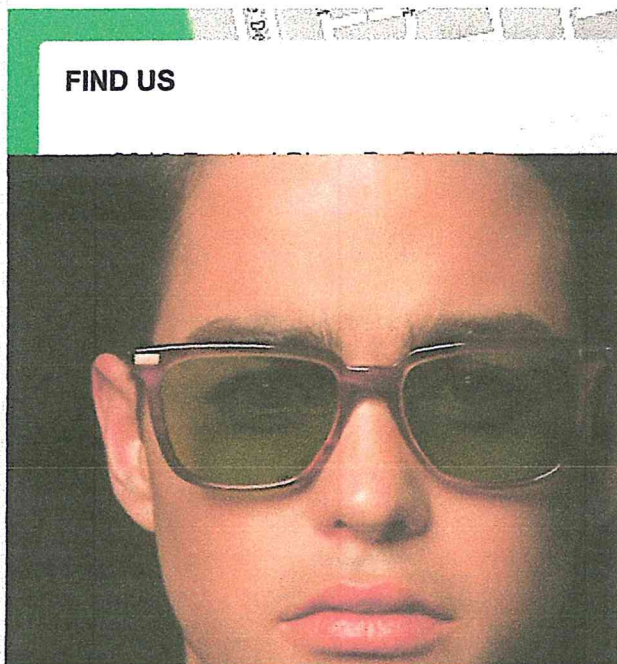
Vision NV
@visionbyamelv

- Home
- Reviews
- Photos
- Videos
- Posts
- Events
- About
- Community
- WIN \$150!

Homepage
URL:

app.visionnv.com/m/visi
= visionbyamel
9/5/19

About



FIND US



Vision NV



1.2K people like this
Optometrist

Typically replies within a day

1.2K people like this

Type a message...

VISION^{NV}

Glasses | Contacts | LASIK*

VIP Eye Care & Luxury Eye Wear



VISION NV • WEDNESDAY, JULY 18, 2018 •

An award-winning business and one of the 100 Most Intriguing Women of Vegas, Dr. Amel Youssef of Vision NV is deemed one of the best optometrists in Las Vegas. With top of the line technology and over 20 years of experience, Dr. Youssef and her staff are focused on personalized care and a VIP experience.

Vision NV provides a variety of services including:

- Comprehensive Eye Exam
- Contact Lens Exam and Fitting

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Reviews / Social

Gallery

The Brands

Eye Dr Guide

Rewards

Notifications



Ap



List

search



condition, procedure, doc

location



my current location

insurance



I'll choose my insurance la

Find

Dr. Ame



La

Amel Youssef, O.D, is a leader i
emphasis in post surgical cont
itchy eyes, and vision enhance:



Dr. Amel Youssef, OD does n
booking at this time.

Other highly-rated Optome⁰⁷⁶

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VISION^{NV}

077

Dr. Amel Youssef and her staff are dedicated to providing a community-driven, family friendly eye care practice. Dr. Youssef has built one of the most successful optometry practices in Las Vegas by offering a wide range of eye care services and personalized attention for each individual patient. Our Downtown Summerlin location is the largest of its kind in the Las Vegas area, providing our patients with a full LASIK facility onsite, thousands of name brand contact lenses in stock for same-day fittings, and all of the top designer frames. With our online appointment scheduling, our contact lens and eyewear home delivery, and 24-hour patient care service, we serve our local community with quality and convenience in mind.

TOP 100 WOMEN OF THE YEAR

MYVEGAS



Dr. Amel Youssef
dedicated to providing a community-driven, family friendly eye care practice. Dr. Youssef has built one of the most successful optometry practices in Las Vegas by offering a wide range of eye care services and personalized attention for each individual patient.



Dana Billings
During her 11 year tenure, she has had the proud to represent Arizona's top 100 women in business. Dana is a successful entrepreneur who has been able to bring her passion for fashion and philanthropy. Being able to support children's education while creating lasting relationships along the way is a top priority for her every day.



Abby Hawkins
In the leadership of Black & Cherry Head State, Abby is among the top 100 women in business. She is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.



Carolyn G. Goodman
Carolyn is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.



Christina Middleton
Christina is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.



Courtney Cross
Courtney is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.



Dani Bradford
Dani is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.



Dawn Heist
Dawn is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.



Dawn Gibbons
Dawn is a successful entrepreneur who has been able to bring her passion for philanthropy and education while creating lasting relationships along the way is a top priority for her every day.

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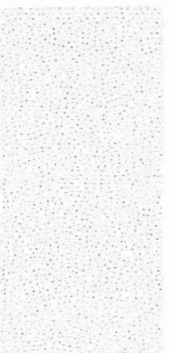
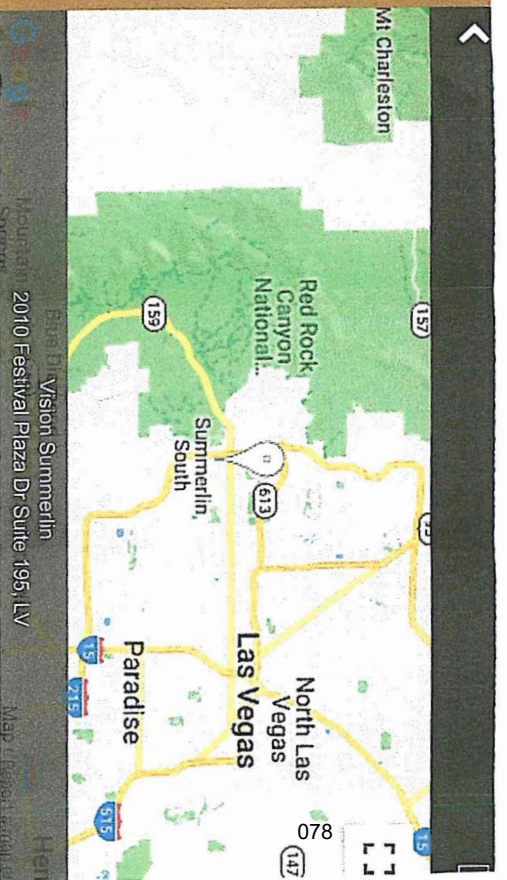
Gallery

The Brands

Eye Dr Guide

Rewards

Notifications



Admin

From: Caren Jenkins
Sent: Wednesday, September 25, 2019 6:12 PM
To: Admin
Subject: Petition for Declaratory Order
Attachments: Summary Overview FAQ Sublease Marketing Program with Exhibits.pdf

Caren C. Jenkins, Esq.
Executive Director

Nevada State Board of Optometry
P.O. Box 1824
Carson City NV 89702
775-883-8367 - office
775-305-0105 – fax
www.nvoptometry.org

**** CONFIDENTIALITY NOTICE****

The preceding e-mail message (including attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not the intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution or reproduction of this message by unintended recipients is not authorized and may be unlawful.

From: Shannon Chandler [<mailto:lveyedoc@yahoo.com>]
Sent: Tuesday, September 24, 2019 11:52 AM
To: Caren Jenkins
Subject: Declaratory Judgment Request

Hello Caren,

I would like to request a declaratory judgment from the Board on a marketing program that I have an opportunity to participate in. I have attached a summary of the program for them to review. Could you please present it at the next meeting to determine if it is permissible under the current regulations? I will plan on being available during the meeting to answer any questions.

Best regards,

Shannon Chandler, O.D.

Visionary Retail Management Marketing Services Program Overview

WHAT IS IT?

Visionary Retail Management Services, Inc., a subsidiary corporate affiliated with Visionworks of America, (“VRM”), has extensive marketing capabilities and knowledge of the eyewear industry. In response to interest from many sublease partners, VRM has developed a package of marketing services that will be offered to sublease optometrists at a competitive price.

The package includes the following support:

- Web landing page, E-mail marketing, paid social media advertising, Geofencing of competitive locations targeting exams, and Direct Mail (optional).
- Doctor marketing toolkit – on demand marketing support for printed materials, such as business cards and office posters.

In order to gain economies of scale such that the program can be affordable to independent practitioners, VRM has made large media buys to reduce the cost of individual ads. Then, VRM will re-sell some of the space purchased to program participants.

WHY IS IT NEEDED?

- Analytics have changed how marketing is done. The most effective marketing has shifted from broad-based (TV/newspaper) to targeted (Customer Relationship Management & Digital).
- It is very hard for a single practice (small business owner) to compete digitally with larger organizations, as they are supported by data-driven business insights and marketing teams.
- As a result of this changing landscape, many doctors have asked for help to compete with the marketing efforts of larger competitors in their area.

WHAT ARE THE LEGAL CONSIDERATIONS?

Many state optometric laws restrict the type of cooperative advertising in which optometrists may engage. The VRM creative team has taken care to make the ads designed for the optometrist appear as different as possible from the VRM ad which may be in proximity to the doctor’s ad.

The use of different fonts, colors and borders were applied to distinguish the optometrist’s ad from VRM content. VRM has also taken care to communicate to consumers that the doctor/sublessee is independent and not employed by VRM. Examples of sample advertisements are attached. VRM encourages all participants to seek legal counsel familiar with the optometric laws in their state.

Exhibit 1

Sample Digital Advertising

**SCHEDULE YOUR
COMPREHENSIVE EYE EXAM.**



David M. Nigh, O.D.
765 Haywood Road
Greenville, SC 29607
(864) 234-5777

The Nigh Eye Group
Independent Doctor of Optometry

BOOK YOUR APPOINTMENT

**BUY ANY PAIR AT REGULAR PRICE,
GET ONE FREE.**

(ALL GLASSES. REALLY.)

Visionworks
SEE THE DIFFERENCE

FIND A STORE

Exhibit 2

Sample OD Landing Page



Independent Doctor of Optometry



Alessandra Margain-Salazar, O.D.



Schedule Eye Exam

OR CALL (210) 924-6527

1936 S.W. Military, Ste A,
Mayan Palace
San Antonio, TX 78221-1433
(210) 924-6527

ENGLISH, SPANISH

Hours of Operation

🕒 Open Until 7:00 pm

Monday 9:30 am - 6:00 pm

Tuesday 9:30 am - 6:00 pm

Wednesday **Open Now Until 7:00 pm**

Thursday 9:30 am - 6:00 pm

Friday 9:30 am - 6:00 pm

Saturday 9:00 am - 5:00 pm

Sunday Closed

BIO

Dr. Alessandra Margain-Salazar received her education at the Inter-American University of Puerto Rico at the prestigious College of Optometry. Dr. Margain-Salazar tells us she has "always seen optometry as a stimulating and rewarding career that would help improve a patient's vision."

Besides providing eye exams, Dr. Margain-Salazar loves taking time to educate patients about ocular health. Outside the office, she enjoys spending times with friends and family and loves travelling



Our mission is to help you see great now and for a lifetime. We are devoted to keeping your eyes healthy. We make getting your eye exam easy and convenient. Simply click or call to schedule today.

**BEFORE THE STATE OF NEVADA
BOARD OF OPTOMETRY**

CAREN C. JENKINS, Executive Director,
STATE OF NEVADA BOARD OF
OPTOMETRY,

Petitioner,

v.

AMEL YOUSSEF, O.D.,

Respondent.

Consolidated Cases No.19-05 and 19-11

***AMENDMENT TO STIPULATION FOR
SETTLEMENT***

This Amendment to the Agreement and Stipulation for Settlement of Complaint (“Stipulation”) is entered into by and between the Petitioner, the STATE OF NEVADA BOARD OF OPTOMETRY (“Board”), by and through its Executive Director, CAREN C. JENKINS, ESQ. (“Executive Director”) and the Board’s legal counsel, SARAH BRADLEY, ESQ., Deputy Attorney General; and the Respondent, AMEL YOUSSEF, O.D. (“Respondent”), by and through her attorney, TIMOTHY ELSON, ESQ., of THE LAW OFFICES OF TIMOTHY ELSON, LLC.

1. This Amendment is made solely to clarify a typographical error in the Stipulation entered in this consolidated case on March 27, 2019. This Amendment does not change any of the other provisions set forth in the Stipulation, including, but not limited to, the timing of the probation, which is expressly controlled by the execution of the Stipulation and the dates set forth in the Stipulation.

2. In Paragraph 10 of the Stipulation, the Stipulation addresses terms of the Confidential Settlement Agreement (“CSA”) that Respondent reached with Vision Service Plan (“VSP”). Paragraph 10 states that Respondent would complete making the agreed-upon payments to VSP by March 2019. However, Respondent was to begin making payments to VSP on or about March 15, 2019, and the payments are to be completed approximately one year later. Respondent is also permitted to reapply to the VSP Doctor Network as further specified in the Settlement Agreement. During the Board’s investigation, Respondent produced to the Executive Director a letter from VSP, which outlined the correct terms of the CSA. That is, Respondent accurately disclosed the correct terms prior to entering into the Stipulation and for whatever reason and to no fault of any party, a typographical error occurred in the Stipulation as to the

timing of the completion of Respondent's payments to VSP.

3. As such, the Parties hereby agree that the Stipulation shall be amended to reflect the correct payment terms to VSP, with payments starting on March 15, 2019, and concluding approximately one year later, on or about March 15, 2020.

IT IS SO STIPULATED.

By: _____ this ____ day of October 2019
Amel Youssef, O.D., Respondent

By: _____ this ____ day of October 2019
Timothy Elson, Esq. of The Law Offices Of Timothy Elson, LLC
Attorney for the Respondent

By: _____ this ____ day of October 2019
Chen Young, O.D., President
Nevada State Board of Optometry

By: _____ this ____ day of October 2019
Caren C. Jenkins, Esq., Executive Director
Nevada State Board of Optometry

By: _____ this ____ day of October 2019
Asheesh S. Bhalla, Esq., Deputy Attorney General
Counsel to the Nevada State Board of Optometry

BOARD ACTION

This Amendment to the Agreement and Stipulation for Settlement of Complaint in the matter of Amel Youssef, O.D., Case No. 19-05 and 19-11 came before a properly noticed meeting the Nevada State Board of Optometry and was (initial appropriate action):

Approved: _____ Disapproved _____

by a majority vote of the Nevada State Board of Optometry on October 1, 2019.

VOTES:

Chen Young, O.D., Board President

Mariah Smith, O.D.

Jeffrey Austin, O.D.

Drew Johnson (Public Member)

DATED this ____ day of October 2019

By: Caren C. Jenkins, Executive Director
NEVADA STATE BOARD OF OPTOMETRY