

NEVADA STATE BOARD OF OPTOMETRY



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Meeting Materials for

December 3, 2019

Board Meeting

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OF

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Agenda

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FIRST AMENDED AGENDA & NOTICE OF REGULAR MEETING

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

Tuesday, December 3, 2019, at 12 Noon

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

AGENDA

1. Welcome, Introductions and Public Comment.

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

2. Call to Order, Roll Call.

3. *For Possible Action. Review, revision and/or approval of draft minutes of October 1, 2019, October 11, 2019 and November 5, 2019 meetings.

4. *For Possible Action. Consideration and approval of 2019 Audit Report by Steele & Associates, CPAs.

5. *For Possible Action. Consideration and approval of LCB draft of Board proposed revisions to NAC 636. Further revisions to NAC 636 raised by members of the Board may also be considered under this agenda item.

(continued on next page)

6. ***For Possible Action. Executive Director's Report.**
 - A. Flooding of office space.
 - B. Preparation for license renewals.
 - C. Website revisions.
7. **Announcements and requests for future Board consideration. (No action shall be taken on these matters at this meeting)**
 - A. Consideration of proposed adoption of NAC 636 regulations (LCB File No. No. R066-19) by the Legislative Committee on Health Care scheduled for Wed. December 11, 2019 at 9:00 a.m., Rm. 4401 Grant Sawyer Bldg in Las Vegas, videoconferenced to Room 3137 Legislative Bldg., 401 S. Carson St. in Carson City.

NEXT BOARD MEETING is scheduled for 9:00 am on Tuesday, January 7, 2020 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.

Materials for Agenda Item

No. 3

Review, revision and/or approval of draft minutes of
October 1, 2019, October 1, 2019 and November 5, 2019
meetings.

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MINUTES OF OF PUBLIC WORKSHOPS

The Legislative & Regulatory Subcommittee of the Nevada State Board of Optometry held two public workshops to discuss potential revisions to NAC 636 resulting from the 2019 Legislative Session and other changes needed for NAC 636 to reflect current practices.

Monday, July 29, 2019 at 5:30 p.m.

Rapscallion Seafood House, 1555 S Wells Ave, Reno, NV 89502.

Tuesday, July 30, 2019 at 5:30 p.m.

This meeting was held telephonically only.

1. Welcome, Introductions and Public Comment.

Chair of the Subcommittee and Board Vice-President, Mariah Smith, O.D. opened the meetings, introduced various guests and invited public comment. No formal public comment was offered due to the nature of the expected discussion in the next agenda item, though several people applauded the opportunity to offer input to the Board in this manner. At the Reno workshop, approximately 20 individuals attended, including members and staff of the Nevada Optometric Association and various independent licensees. On the telephonic workshop, approximately 14 individuals participated, though several failed to identify themselves.

2 Gathering and consideration of potential revisions to NAC 636 resulting from the 2019 Legislative Session and other changes needed for NAC 636 to reflect current practices.

Both Dr. Smith and the Board's Executive Director took notes of all input expressed at the meeting. Rather than presenting the notes as minutes, they were inserted directly into the draft presented by Dr. Smith as interlineations and additions, without attribution. A copy of the proposals is attached hereto and made a part hereof.

3. Public Comment.

No additional comments were offered.

4. Adjournment.

Dr. Smith Adjourned the workshop at approximately 6:50 pm on July 29, and at approximately 6:10 pm on July 30, 2019.

Approved this date by majority vote of the Nevada State Board of Optometry at a properly noticed meeting.

Date_____

By Caren C. Jenkins, Executive Director

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 in the regulations*, 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 A8-4-94, 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 modifications, 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 the agreement for employment or contract requires the optometrist 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 may use only the following as a professional designation:

- (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 least his/her last name, professional designation and the hours during which the optometric office is open.

2. A sign posted at a location which is remote from the office must specify the name of the licensee that *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 referring to optometric services *for* must contain the registered or fictitious name as it appears on the *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 such advertisements must appear in 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 referring to an optometrist or optometric services must include a statement of the name of the optometrist and his *or her* professional designation, *or the fictitious name filled with the Board*. Any disclaimer in such advertisements must be

communicated in a manner as to allow that a reasonable person 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 or fictitious name.

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

NAC 636.150 Ophthalmic products or services and devices. ([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 eye* ~~[the following information]~~ and, if printed *or used in an electronic medium*, the information must ~~[be printed]~~ *appear at least* 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 fees must appear*. ~~[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 services in NAC 636 are not included.

[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 assessed 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 optometry practice 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 the original or a duplicate of his *or her* license to practice optometry and a current renewal card at each office in which he *or she* practices optometry or has an ownership interest.
3. An optometrist may practice optometry only in the practice locations he or she has *registered with the Board.*
4. An optometrist may practice optometry in a location other than the location 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 advance 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 following the emergency.
5. 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 636*, of the employed optometrist 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 State of Nevada if registered as an entity and, if a dba, from the appropriate local governmental entity *or en-*

ties that a registration of the assumed or fictitious business name, a “dba” registration or a ~~issues~~ business license 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 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 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 optometry 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](#)) The Board will consider the failure of a licensee to comply with any provision of NRS [636](#) or NAC regarding management of an optometry practice, or provision of the full range of optometric services, 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 or wall in such a manner as to ensure a clear separation 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 during Regulatory activity involving the business relationship. This Provision expressly prohibits Licensees from entering an employer/employee relationship with any non-licensed individual or entity.

(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 will be required to 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 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;
- ~~{c}~~ 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 Colombia, 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 dele-

gated 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 a Board-Certified Nevada ophthalmologist.

(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 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 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 acquisition and utilization, pharmaceutical utilization, and any other decision involving the patient health care experience and the outcome of any treatment or other encounter.

NAC 636.380 Service upon attorney. ([NRS 636.125](#)) Pursuant to NRS 636.375, ~~f~~**f**ollowing 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[F]~~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; A5-27-92)]~~

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 opinion~~s~~ 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 ~~[poly-methylmethacrylate (Hydrophobic) contact lens,]~~ rigid gas permeable contact lens or soft

~~[(Hydrophilic)]~~ contact lens issued by an optometrist *following the completion of the 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]~~leased 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 ~~[(Hydrophilic)]~~ 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 ~~[(Hydrophilic)]~~ 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 ~~[(Hydrophilic)]~~ 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 ~~[(Hydrophilic)]~~ 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 ~~[(Hydrophilic)]~~ 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, 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)

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. **Define “underserved”:** **NRS 449.0175 “Rural clinic” defined.** “Rural clinic” means a facility located in an area that is not designated as an urban area by the Bureau of the Census... **NAC 630.145 Restricted license: “Medically underserved area” defined.** For the purposes of subsection 1 of [NRS 630.264](#), “medically underserved area” means any geographic area designated by the Board with a population to primary care physician ratio of 2,500:1. When designating a geographic area as medically underserved, the Board may consider any additional criteria proposed by the Officer of Rural Health of the University of Nevada School of Medicine or a board of county commissioners.
- 3. Define that there may be 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. FEES.

6. The medical records belong to the doctor performing the examinations, NOT the clinic.
7. 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 the more appropriate state or federal Board or organization, and relieving the Board from consideration of such complaints. Need ability for Board reporting and oversight to these determinations.
3. The optometrist who performs the examination owns the medical record if they are performing services as an independent contractor at a location not owned by an optometrist.

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: \$650.00 (includes 2 year license, application fee and certificate)

Endorsement application: \$450 (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: \$50.00

2 year renewal, inactive license: \$500.00

Activation of current inactive license: \$250

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:

Application for certification of Mobile Optometry Clinic \$_____

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 therapeutic 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 TPA 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 ~~{below}~~ in policy.

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

~~[NOTE: Continuing Education will NOT be accepted for coursework from Optocase and/or Queens University.]~~

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.

(Note: Keep policy 13, 9, 4, and addresses in 1)

NEVADA STATE BOARD OF OPTOMETRY



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Public Board Member

MINUTES - DRAFT

Nevada State Board of Optometry telephonic meeting Regulatory Workshop October 1, 2019 at 11 a.m.

1. **Call to Order** by Optometry Board Vice-President Mariah L. Smith, O.D., Chair, Subcommittee on Legislative and Regulatory Changes.

Dr. Smith called the workshop to order at 11:01 p.m. via telephone conference. Board members Young and Johnson were in attendance, along with staff: Caren C. Jenkins, Executive Director, Laura Adair, Licensing Specialist. Also in attendance were Senior Deputy Attorney General Sophia, Jeannette Belz, Lobbyist, and Terri Ogden of NOA, Kenneth Kopolow, O.D., Steve Girisgen, O.D., Shannon Chandler, O.D. Spencer Quinton, O.D., Tim Elson, Esq. and Chaz Hernandez.

2. **Public Comment.** There was no 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.

Dr. Young stated that because current law permits an optometrist to work either for themselves or another optometrist, the proposed section regarding private entities may not be applicable or necessary. Dr. Young referred to and read a comment submitted to the board that the section on private equity would allow entities not licensed to practice in NV to employ NV optometrists. Because of the intense commercial competition the private equity involvement would create, solo practices may not be able to survive.

Dr. Kopolow agreed with Dr. Young that no changes are necessary if the current

regulations are left intact. Dr. Kopolow asked how the statute has held up in its current form to the pressure that has already come about, and asked whether any complaints have been filed to challenge this.

Dr. Young responded that the Board would treat any injury just like any other complaint, and the matter would be investigated to determine if there is a violation.

Deputy Attorney General Sophia Long, Esq. stated for clarification that any complaint that may have already been filed with the board would need to remain confidential.

Dr. Smith recommended, in light of this discussion, that the new section regarding private equity be removed at the board meeting to follow.

Dr. Smith stated that the board received written comments regarding co-management fees with multifocal contacts. There is an optometrist who argues that premium IOL's require optometrists to invest additional time and therefore should be allowed more reimbursement, which is still below what Medicare allows. Also if a patient requires Lasik or PRK after cataract surgery, this additional co-management would fall on the optometrist without any available additional compensation beyond the initial agreement.

Dr. Young noted that the board may have already established that optometrists could not charge more for certain types of cataract surgery several years ago. However, he noted, in terms of follow up for patients if they need PRK or Lasik after cataract surgery for example, co-management fees only cover a 90 day period. If postop care is required long after after surgery, it should be a completely separate fee.

Dr. Smith commented that an ophthalmologist may view this postop period differently than an optometrist.

Dr. Kopolow asked if there are any Federal statutes or laws that prohibit or reinforce this new section on co-management and asked what the intent is on this section.

Dr. Smith responded that the only law she is aware of is through Medicare. She noted that Dr. Austin proposed this as he believes optometrists are getting lured to certain ophthalmologists for co-management due to higher reimbursement for the upgraded implants; that the optometrist would be paid a higher co-management fee due to the higher cost for upgrades that the patient commits to.

Ms. Jenkins stated if the board took action at a prior meeting regarding a specific set of facts and circumstances, it is not precedential as a general rule, and that this is an opportunity to incorporate this policy into regulation. If the board wishes to make this policy enforceable to all rather than only as it applies to a particular set of circumstances, it needs to be placed into regulations or statutes.

Dr. Young stated he recalls at least a couple years ago the board had discussion that the optometrist would have to prove he or she undertook extra procedures to justify the

additional charges.

Dr. Spencer Quinton asked for clarification on who the board is referring to when the language states “it has been determined”.

Dr. Young asked on standard Medicare postoperative patient where the patient chooses to get a multifocal IOL, whether the optometrist is permitted to charge a higher amount or will Medicare allow additional charges to be billed for co-management.

Dr. Young stated that all comments discussed thus far will be taken into account and can be further discussed at the next board meeting.

Dr. Young asked Ms. Jenkins if the board had received any complaints from patients not receiving their contact lens prescription after a complete exam and fitting occurred.

Ms. Jenkins responded she is only aware of one patient who did not receive a contact lens Rx prior to the fitting, and she explained that an optometrist is only required to release the Rx following completion of exam including the fitting.

There was discussion regarding proposed new section on mobile optometry certification and defining “underserved population”. Ms. Jenkins stated this change came from the NV LCB, as they require a specific source be designated. She confirmed underserved is everywhere and defined as medically, however the data is not available specifically for optometry.

Ms. Jenkins stated that “medically underserved” is defined by the State of NV demographer, who is the hub that collects data from all resources including UNR and publishes it. For our statute we can specify medically underserved for vision care and the board can periodically review and revise its determination based on new data. Ms. Jenkins confirmed the medically underserved “as determined by state demographer” regulation would be reliant upon a third party rather than the board.

Ms. Jenkins clarified that mobile optometry does not allow an optometrist to be a maternity leave- fill-in or a retiree to only be a rotating fill-in, and suggested that the board include language to accommodate these type of optometrists rather than serving specific mobile optometry providers. The board should not discourage an optometrist to fill in. Dr. Smith suggested that the board continue further discussion on this at next board meeting.

4. **Public Comment.** There was no public comment.
5. **Adjournment.** Dr. Young thanked the optometrists in attendance for their input. The workshop was adjourned at 11:30 a.m.

REGULAR MEETING

1. Welcome, Introductions and Public Comment.

There was no public comment.

2. Call to Order, Roll Call.

Board President Dr. Chen 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 Sophia Long, Board Counsel, Jeannette Belz, Lobbyist, and Terri Ogden of NOA. Also in attendance were Kenneth Kopolow, O.D., Steve Girisgen, O.D., Shannon Chandler, O.D. Spencer Quinton, O.D., Tim Elson, Esq. and Dr. Chaz Hernandez.

3. *For Possible Action. Consideration and approval of the **minutes of June 25, 2019 and August 5, 2019 Optometry Board meetings. (Materials provided)**

Mr. Johnson requested that August 5, 2019 date needs to be corrected going forward to say August 8, 2019; correction noted and will be made prior to posting.

Dr. Austin made a motion to accept meeting minutes of 6/25/19 and 8/8/19 as corrected. Dr. Smith seconded, all in favor, motion carried.

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.

Dr. Smith summarized the following changes which were discussed and agreed upon by the board. These changes will be made once the LCB returns the draft of the regulations;

- 636.210: have item 1) a) say that, at a minimum, the optometrist's last name as it appears on the license is required.
- In section under this, regarding separation of optometrist from unlicensed adjoined business, state that the employees assisting the OD must be under the employ of the O.D.
- AFTER/UNDER 636.250 - the new section regarding Custodians for records - strike this section; this will be a recommendation in Board Policies but not a requirement.
- AFTER/UNDER 636.310 for the new section regarding Private Equity groups - strike the section.

- 636.674 – Regarding co-management, no recommendation will be made as this needs further discussion.

Dr. Austin commented that if a surgeon is offering Lasik or PRK as a package, the surgeon should then do postoperative care, not the optometrist. Otherwise, the surgeon can pay optometrist normal postoperative fee.

Dr. Young asked what the time period is after cataract surgery, and should an ophthalmologist consider Lasik after cataract surgery.

Dr. Austin replied it is usually 60-90 days and at 91 days after surgery it would then be a billable office visit. He added that Medicare reimburses the same amount and does not allow for additional postoperative care.

The board was in agreement that the section regarding co-management will remain as is.

There was further discussion regarding mobile optometry. Ms. Jenkins stated that in order to have a mobile optometry practice, services must be provided only to underserved (as defined by geography, mobility impairment or economically disadvantaged). Nonprofits/government agencies may apply for mobile optometry and need not be licensed optometrists. Dr. Young asked if an optometrist is seeing patients at casinos, for example, would be considered mobile optometry. He is concerned about optometrists who may not have accountability and be potentially harmful to the public.

Ms. Jenkins stated that this type of practice would not be defined as mobile optometry unless the optometrist was seeing only the defined populations. However there is no prohibition in statute on an optometrist providing the board with a physical address and changing this multiple times. Mr. Johnson commented that the current laws in place allow patients to pursue recourse if that happens.

Ms. Jenkins added that there was one entity that moved from place to place, and was able to do so under existing statute by listing additional practice locations. Dr. Austin added that this is something that might be brought up for future legislative sessions, to add language that would prevent this. Ms. Jenkins stated the legislature declined to allow mobile optometry for the general population, allowing only for a specific population.

Dr. Chandler commented that she had received notices through LinkedIn about tele-optometry and asked if there is any way this can be regulated.

Ms. Jenkins stated that if the board wishes to develop a regulation, the NV LCB may or may not approve. Her preference is to take the clearer route and change

statute to a limit the practice of optometry to a fixed location for a period of time, if necessary. Ms. Jenkins asked Ms. Long if the board has a legal basis in order to further define what is and is not permitted in the definition of mobile optometry.

Ms. Long responded that the board may do this, adding that the NV Dental Board and NV Optometry Board both have regulations regarding mobile optometry which may be helpful to the board with drafting language. Ms. Long also stated that the board could limit the number of practice location changes. She further confirmed that the board is currently restricted to what is defined in the statute.

- Based on this discussion, the board will add a new section on mobile optometry: redefine "underserved" to be defined by the State of Nevada State Demographer.
- Regarding the new section regarding policy 7 and 11 on the last paragraph "year" will be revised to "renewal period".

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

Dr. Austin stated he emailed a document to licensees summarizing the changes currently in effect under AB77. Also he and the Executive Director discussed a possible white paper to attach to the website to address some areas of concerns for the public. Dr. Austin will be working on updating the NV online law exam and will be working with Ms. Jenkins on making the changes.

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

Mr. Johnson stated that he previously made recommendations and that he had no new updates.

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

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

Ms. Jenkins stated that she and Ms. Adair will be working with the web developer to make changes to improve readability and clarity, especially with the guidance from Mr. Johnson, and reflect the regulation changes all at the same time. She expects this to be completed within the next Quarter.

Ms. Jenkins summarized the required Small Business Impact Statement which was sent out via email to every 7th licensee and had a 10.7% return. She referred to the attached handout with the responses. She stated the majority of the comments were positive.

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

Ms. Jenkins encourages board members attend this forum, in particular regarding the regulatory training, however unfortunately the budget will not allow the costs to be covered.

3. Proposal for revision to Board Policies regarding continuing education.

Dr. Austin brought to the attention of Ms. Jenkins that there is nothing to prevent a licensee from repeating the same course multiple times within a license period, and suggested that language be added to the regulations to address this.

Ms. Jenkins suggested that the board could make a policy to discourage licensees from repeating the same course during the same renewal period. Ms. Jenkins will place this on the next meeting agenda to allow for further discussion and give Dr. Austin the opportunity to make a motion.

NOTE: Please see action taken on page 8 under Agenda Item 5 (f).

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

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

The redacted complaint and declaration from the physician was reviewed for just and sufficient cause to move forward to investigate this matter. Dr. Austin moved to dismiss Complaint No. 20-01 based on insufficient allegations, seconded by Dr. Smith. Approved unanimously.

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

The redacted complaint pertaining to a sanitation issue was reviewed for just and sufficient cause to move forward to investigate this matter. Dr. Austin moved to dismiss Complaint No. 20-02 based on a jurisdictional basis, seconded by Dr. Smith. Approved unanimously.

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

The redacted complaint regarding HIPAA and billing was reviewed for just and sufficient cause to move forward to investigate this matter. Dr. Austin moved to dismiss Complaint No. 20-04 based on a jurisdictional basis, seconded by Dr. Smith. Approved unanimously.

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

The partially redacted complaint regarding an unregistered fictitious name certificate was brought forth by Ms. Jenkins regarding optometrist "A". A

settlement was negotiated to correct issues.

However, as the regulatory reprieve is still in effect until the regulations are fully adopted, and the licensee has made the necessary changes, Dr. Austin moved to dismiss Complaint No. 19-26, seconded by Dr. Smith. Approved unanimously.

- e. Case No 20-07, Petition for Declaratory Order regarding the propriety of optometrists engaged in advertising & promotion opportunity.

Shannon Chandler, O.D. submitted this request for an order regarding a proprietary/promotional advertising opportunity and exhibits were reviewed and discussed.

Dr. Young expressed concerns about jointly advertising with a non-optometry business. Mr. Johnson believes the public would be able to distinguish between the optometrist and outside advertising. Dr. Austin expressed concern about how this may be perceived, however he did not believe this would be in violation of regulations. Ms. Jenkins added that there have been prior discussions regarding the size of logos and advertising, and in this case the sizes are the same.

Mr. Johnson made the motion that based on the sample in Exhibit 1 and landing page in Exhibit 2, the advertising appears to be in compliance on the current statutes and fall within the board's regulations. Dr. Austin seconded, Dr. Young voted in opposition; Motion carried.

- f. Amendment of Stipulated Settlement, Consolidated Case Nos. 19-05 and 19-11.

Ms. Jenkins, upon reading the signed stipulation previously entered in 19-05 and 19-11, found that the deadline was not met and the penalty should have been paid. However, the stipulation contained an error. The licensee proposed correction to the dates imposed; changing March of 2019 to March of 2020.

Dr. Austin moved to accept the revised agreement, seconded by Mr. Johnson. All in favor, none opposed, motion carried to amend the stipulated settlement.

Mr. Johnson requested a status update on Complaint No. 18-17 which was discussed at the prior board meeting. Ms. Jenkins confirmed that the fine was paid in full along with the penalty and the matter was resolved shortly after the meeting. Additionally, she confirmed the action was reported to the National Practitioner Database and the board recently received a query confirming that it had been posted on the Database's website.

Dr. Smith made a motion to accept the regulations with the changes as noted above on Agenda Item No. 4 as discussed at this meeting, seconded by Dr. Austin. All were in favor, none opposed, motion carried.

Ms. Jenkins noted once the regulations are adopted she will no longer be bringing complaints before the board unless the body's jurisdiction over a matter is unclear.

6. Announcements and requests for **future Board consideration.** (No action shall be taken on these matters at this meeting)

A poll will be taken and sent to the board to confirm proposed future board meetings. The next board meeting is scheduled for 10/11/19.

Remaining board meetings tentatively scheduled for 2019: 11/5/19 and 12/3/19 via teleconference.

Board meetings tentatively scheduled for 2020: 1/7/20 (live from LV, 3/19/20, 4/14/20, 5/19/20 telephonically, and 6/16/20 live from Reno.

Dates will be revised accordingly, as some of these meetings may be cancelled based on the status of the regulations. Meeting in Reno will be held on 6/16/20.

7. **Public Comment.** There was no public comment.
8. **Adjournment.** The meeting was adjourned at 2:00 p.m.

NEVADA STATE BOARD OF OPTOMETRY



CHEN K. YOUNG, O.D.
Board President

MARIAH SMITH, O.D.
Board Vice-President

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CAREN C. JENKINS, ESQ.
Executive Director
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JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

Minutes of Telephonic Meeting Nevada State Board of Optometry **Friday, October 11, 2019, at 12 Noon**

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

Board President Dr. Chen K. Young called the telephonic meeting to order at 12:02 pm.

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

All Board members were present, and Executive Director Caren C. Jenkins, Esq. and the Deputy Attorney General assigned to the Board participated in the call.

3. ***For Possible Action.** Consideration and approval of an additional revision to NAC 636 related to mobile optometry.

Dr. Austin proposed a paragraph defining "mobile optometry" for inclusion in NAC chapter 636. The Board discussed that a mobile optometry practice must comply with providing services only to the statutorily identified populations, but, in addition, it must operate in a location other than a fixed optometry practice location. After some discussion, Dr. Austin moved and Mr. Johnson seconded a motion to define the practice as follows:

"Mobile optometry" is the act of moving optometric instruments and equipment to one or more locations other than a fixed optometry office to conduct eye examinations and provide optometric care for persons or populations with inadequate access to such services. It does not include an optometrist moving between optometric offices that have fixed equipment and instruments, or offering services to persons who do not meet the criteria established in the mobile optometry statutes.

4. Announcements and requests for future Board consideration. None other than the upcoming board meetings:

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.

5. **Public Comment.** No public comment was offered.
6. Adjournment. Motion by Dr. Smith, seconded by Mr. Johnson to adjourn at 12:22 pm

DRAFT

NEVADA STATE BOARD OF OPTOMETRY



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Board Member

DREW JOHNSON
Public Board Member

MINUTES - DRAFT

Nevada State Board of Optometry telephonic meeting Tuesday, November 5, 2019, at 12 Noon

1. Call to Order, Roll Call.

Dr. Young called the meeting to order at 12:01 p.m. via telephone conference. All Board members attended, along with staff: Caren C. Jenkins, Executive Director, Laura Adair, Licensing Specialist. Also in attendance were Senior Deputy Attorney General Rosalie Bordelove, Jeannette Belz, Lobbyist, and Terri Ogden of NOA, Kenneth Kopelow, O.D., Steve Girisgen, O.D., Tim Elson, Esq. and Chaz Hernandez.

2. *For Possible Action. Consideration and approval of additional revisions to NAC 636 related to:

- **factors to determine proper mobile optometry recipients;**

The board discussed available state and federal data from the Dept. of Health and Human Services – primary care HPSA statistical population data as possible sources in order to determine mobile optometry license eligibility based on three factors (1) mobility impairment, (2) underserved based on income, and (3) underserved based on geography.

Ms. Jenkins stated that the HPSA scores that range from 0-25 are calculated based on population to provider ratio, percentage of population below 100 of Federal Poverty Levels, and travel time to the nearest source of care.

Member Johnson made the motion to accept the Federal DHHS data in place of data from state demographer, and to limit mobile optometry services to individuals whose

primary residence is in and where services are offered in a census tract identified as 13 or above. These areas are designated as moderate to severe shortage areas. Dr. Smith seconded the motion, all in favor, none opposed, motion carried.

Ms. Jenkins asked the board if it would be appropriate for an academic institution or public health agency that offered services to the community to qualify for a mobile optometry license, and if there should be limitations.

As a followup to discussion regarding the definition of mobile optometry, Dr. Austin proposed the following language be adopted:

Mobile optometry is the act of moving optometric instruments or equipment to different locations that are not established optometry offices for the purpose of conducting eye examinations. This definition does not include the act of an optometrist moving between different established optometric offices that have fixed equipment and instruments.

- **processing applications for glaucoma certification by endorsement;**

Ms. Jenkins stated that the board needs to identify what factors should be used to evaluate whether a state's certification to treat persons diagnosed with glaucoma are "substantially similar to those applicable to the issuance of a certificate to treat persons diagnosed with glaucoma in this State" as stated in AB77. In addition, once another jurisdiction has been accepted will all other candidates from that jurisdiction need to come before the Board? Dr. Smith suggested that applications initially be reviewed on a case by case basis and then protocols be established for each state. However, state laws can change.

Ms. Jenkins suggested staff could conduct a 50-state survey by contacting each jurisdiction to determine current status of certification to establish protocols, or data could be obtained from ARBO or a national professional optometry organization.

- **limits on repeating CE coursework;**

Dr. Austin raised a concern that there is nothing in statute or policy to prevent an optometrist from repeating the same CE's during the renewal period. However it was determined that as this has not been an issue in the past with any particular optometrist, and a "no-repeat" policy does not need to be addressed at this time.

- **special fill-in licensure;**

It was discussed that there may be optometrists who are semi-retired, for example, who are available to fill-in for optometrists on vacation or family/medical leave, however they are limited to no more than 14 fill-in days per license year. A special license for an additional fee would allow an optometrist under these circumstances to allow them additional fill-in days.

Dr. Austin made a motion to allow for a special fill-in license to be offered for an additional fee of \$300 per renewal period (in addition to the regular license renewal fees), seconded by Dr. Smith. None opposed, motion carried.

- **requirements for assumed or fictitious name certification;**

Ms. Jenkins stated revised regulations require a fictitious name certificate for each owner of an optometric practice using the assumed name, however there still some confusion and asked the board for input on whether it needs to be requested by name/location/licensee; under our definition is corporate entity different from DBA's.

A motion was made by Dr. Young;

fictitious name certificate to be issued for entity name with DBA with all owners of entity, per location.
Seconded by Dr. Austin.

- **electronic delivery of location/renewal cards;**

Ms. Jenkins stated as the board has agreed to allow license renewal cards to be issued and verified electronically and make sending a physical card optional, does this need to be placed in regulations or board policies?

Drew – change to his/her instead of their

Dr. Austin – Discussion of co-management fees between optometrist and ophthalmologist –

Patient needs to be informed of any non-covered fees. Ophthalmologist may collect fees and disburse to co-managing optometrist for patient's convenience.

4. Announcements and requests for future Board consideration. The next board meeting is scheduled for Tuesday, December 3rd at Noon via teleconference.
5. **Public Comment.**
6. Adjournment. Dr. Smith made a motion to adjourn the meeting, seconded by Mr. Johnson, at 1:22 p.m.

Materials for Agenda Item

No. 4

Consideration and approval of 2019 Audit Report by Steele
& Associates, CPAs.

NEVADA STATE BOARD OF OPTOMETRY
FINANCIAL STATEMENTS
JUNE 30, 2019

NEVADA STATE BOARD OF OPTOMETRY
FINANCIAL STATEMENTS
YEAR ENDED JUNE 30, 2019

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INDEPENDENT AUDITOR'S REPORT

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

We have audited the accompanying financial statements of the governmental activities of the Nevada State Board of Optometry as of and for the year ended June 30, 2019, and the related notes to the financial statements, which collectively comprise the Board's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

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

Auditor's Responsibility

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

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

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

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Affordable Housing Association of Certified Public Accountants

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the governmental activities of the Nevada State Board of Optometry as of June 30, 2019, and the changes in financial position for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, budgetary comparison information, pension information and other post-employment benefit information, on pages 3 through 6, 24, 25 through 26 and 27 through 28, respectively, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.

We have applied certain limited procedures to the management discussion and analysis in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The budgetary comparison information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the budgetary comparison information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 31, 2019, on our consideration of the Nevada State Board of Optometry's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Nevada State Board of Optometry's internal control over financial reporting and compliance.

Steele & Associates, LLC

Carson City, Nevada
October 31, 2019

NEVADA STATE BOARD OF OPTOMETRY MANAGEMENT'S DISCUSSION AND ANALYSIS

This section of the Nevada State Board of Optometry annual financial report presents our discussion and analysis of the Board's financial performance during the fiscal year that ended June 30, 2019. Please read it in conjunction with the Board's financial statements, which immediately follow this section.

Financial Highlights

- Revenue for the fiscal year ended June 30, 2019 was \$277,377 representing an increase of 17.9% over fiscal year ended June 30, 2018
- There was an increase in long-term liabilities of \$89,186 and an increase in pension expense of \$24,698 as a result of required adjustments under GASB 68 & 82.
- There was an increase in long-term liabilities of \$110,100 and an increase in other post-employment benefit expense of \$118,496 as a result of required adjustments under GASB 75.

Overview of Financial Statements

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

Government-wide Financial Statements

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

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

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

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

Fund Financial Statements

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

Governmental Funds

Governmental funds are used to account for essentially the same functions reported as government activities in the governmental-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows of spendable resources, as

well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the Board's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the governmental-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for government activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the Board's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenue, expenditures and changes in fund balance provide a reconciliation to facilitate this comparison between governmental funds and governmental activities. These reconciliations are on pages 8 and 9, respectively.

In accordance with Nevada Revised Statutes, the Board maintains its financial information in a special revenue fund. The basic governmental fund financial statements can be found on pages 8 and 9 of this report.

Notes to the Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages 10 through 22 of this report.

Other Information

In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information concerning the Board's budget process. The Board adopts an annual budget and a budgetary comparison has been provided in the governmental fund statement of revenue, expenditures and change in fund balance on page 24 of this report.

Condensed Financial Statements

The Condensed Statements of Net Position is as follows:

	<u>06/30/2019</u>	<u>06/30/2018</u>
ASSETS		
Current & other assets	\$ 565,194	\$ 553,625
Deferred outflows of resources	197,457	140,936
Capital assets, net	2,708	2,570
Total Assets	<u>765,359</u>	<u>697,131</u>
LIABILITIES		
Current liabilities	192,751	193,731
Deferred inflows of resources	55,109	54,680
Long-term liabilities	444,346	245,060
Total Liabilities	<u>692,206</u>	<u>493,471</u>
NET ASSETS		
Non-spendable Capital Assets	2,708	2,570
Assigned for: Board Activities	70,445	201,091
Total Net Position	<u>\$ 73,153</u>	<u>\$ 203,661</u>

The Condensed Statements of Activities is as follows:

	<u>06/30/2019</u>	<u>06/30/2018</u>
REVENUE		
Program revenue-services	\$ 275,889	\$ 234,276
General revenue-investments	1,488	981
Total Revenue	<u>277,377</u>	<u>235,257</u>
EXPENSES		
Optometry Board operations	<u>407,885</u>	<u>303,512</u>
Excess of Revenue over Expenditures	<u>(130,508)</u>	<u>(68,255)</u>
CHANGE IN NET POSITION	<u>\$ (130,508)</u>	<u>\$ (68,255)</u>

Government-wide Financial Analysis

Net assets may serve over time as a useful indicator of a government's financial position. In the case of the Board, assets exceeded liabilities by \$73,153 and \$203,661 as of June 30, 2019 and 2018, respectively.

Changes in Net Assets

The Board's total revenues for the fiscal year ended June 30, 2019 were \$277,377. The total costs of all programs and services were \$407,885. The decrease in net revenue is due to the adjustments associated with other post-employment benefits due to the adoption of GASB 75.

Financial Analysis of the Board's Fund

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

Governmental Funds

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

The financial performance of the Board as a whole is reflected in its governmental funds. As the Board completed the year, its governmental funds reported a balance of \$381,973.

Budgetary Highlights

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

Capital Assets and Debt Administration

Fixed assets increased by \$138 during the year due to the purchase of an asset less depreciation expense recorded net of accumulated depreciation. In government-wide financial statements, these assets are reflected at their historical costs less accumulated depreciation. Additional information can be found in the footnotes to these financial statements.

Economic Factors and Next Years' Budget and Rates

The Board used no specific economic factors in preparing its budget for fiscal year 2018/2019. The Board's revenue is limited by maximum license fees specified in the Nevada Revised Statutes and the Nevada Administrative Code. For expenses, the Board typically assumes an increase of around 20% over the prior year.

BASIC FINANCIAL STATEMENTS

NEVADA STATE BOARD OF OPTOMETRY
Statement of Net Position and Governmental Fund Balance Sheet
June 30, 2019

	Government Fund	Adjustments (Note 9)	Statement of Net Position
ASSETS			
Cash and cash equivalents	\$ 561,917	\$ -	\$ 561,917
Prepaid expenses	2,277	-	2,277
Refundable security deposit	1,000	-	1,000
Capital assets, net of accumulated depreciation	-	2,708	2,708
Total Assets	<u>565,194</u>	<u>2,708</u>	<u>567,902</u>
DEFERRED OUTFLOWS OF RESOURCES			
- Other post-employment benefits	-	2,702	2,702
- Pension requirement	-	194,755	194,755
Total Assets and Deferred Outflows of Resources	<u>\$ 565,194</u>	<u>200,165</u>	<u>765,359</u>
LIABILITIES			
Accounts payable	\$ 9,500	-	9,500
Accrued payroll	-	-	-
Payroll taxes payable	2,672	-	2,672
Employee benefits payable	6,916	-	6,916
Licensing fees received in advance	164,133	-	164,133
Accrued compensated absences	-	9,530	9,530
Net other post-employment benefits liability	-	149,378	149,378
Net pension liability	-	294,968	294,968
Total Liabilities	<u>183,221</u>	<u>453,876</u>	<u>637,097</u>
DEFERRED INFLOWS OF RESOURCES			
- Other post-employment benefits	-	10,016	10,016
- Pension requirement	-	45,093	45,093
Total Liabilities and Deferred Inflows of Resources	<u>183,221</u>	<u>508,985</u>	<u>692,206</u>
FUND BALANCE/NET POSITION			
Fund Balance			
Assigned for:			
Board Activities	381,973	(381,973)	-
Total Liabilities and Fund Balance	<u>\$ 565,194</u>		
NET POSITION			
Invested in capital assets, net of related debt		2,708	2,708
Unrestricted		70,445	70,445
Total Net Position		<u>\$ 73,153</u>	<u>\$ 73,153</u>

See Accompanying Notes to Financial Statements

NEVADA STATE BOARD OF OPTOMETRY
Statement of Activities and Governmental Fund Revenue, Expenditures
and Changes in Fund Balance
For the Year Ended June 30, 2019

	Government Fund	Adjustments (Note 9)	Statement of Activities
EXPENDITURES/EXPENSES			
Optometry board operations	\$ 258,730	\$ 149,155	\$ 407,885
Total Expenditures	258,730	149,155	407,885
PROGRAM REVENUE			
Charges for services	275,889	-	275,889
Net Program Revenue	17,159	(149,155)	(131,996)
GENERAL REVENUE			
Interest income	1,488	-	1,488
Excess of Revenue over Expenditures	18,647	(18,647)	
Change in Net Position		(130,508)	(130,508)
FUND BALANCE/NET POSITION			
Fund Balance/Net Position, June 30, 2018	363,326	(121,470)	241,856
Prior Period Adjustment (Note 8 & 10)	-	(38,195)	(38,195)
Fund Balance/Net Position, June 30, 2018 (Restated)	363,326	(159,665)	203,661
Fund Balance/Net Position, June 30, 2019	\$ 381,973	\$ (308,820)	\$ 73,153

See Accompanying Notes to Financial Statements

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 1 - NATURE OF OPERATIONS

The Nevada State Board of Optometry (the Board) was created in 1913 by the Nevada State Legislature. The Board is regulated by the Nevada Revised Statutes, which also specify the authorized activities of the Board. The Board is the licensing and regulatory agency for optometrists and has the power to accredit schools of optometry in the State of Nevada.

The financial statements of the Board have been prepared in accordance with generally accepted accounting principles as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reporting Entity

Effective July 1, 2001, Chapter 353 of the Nevada Revised Statutes (NRS) was amended to exempt certain professional and occupational boards from the state budget act and the provisions governing the administration of state funding. The provisions of Chapter 353 do not apply to boards created pursuant to chapters 485, 590 and 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of the NRS and the officers and employees thereof. Accordingly, the Board's budgeting and accounting practices and procedures have been removed from the oversight of the Department of Administration.

The Board's financial statements are not included in the financial statements of the State of Nevada since the State does not exercise financial or administrative control over the Board. This conforms with GASB codification Section 2100, *Defining the Government Reporting Entity*.

Basis of Presentation

The Board is defined as a single-program special-purpose entity under GASB Statement No. 14, paragraph 131 as amended by GASB Statement No. 39. This classification allows for the preparation of GASB 34 financial statements under an optional reporting method which combines the fund and government-wide statements into a single presentation. Under standard GASB 34 methodology, the government-wide statement of net position and statement of activities are presented independently from the respective fund balance sheet and statement of revenues, expenditures, and fund balance. A reconciliation of adjustments provided on the modified financial statements demonstrates the changes from fund financial statements to the government-wide financial statements in order to assist the reader in evaluating these statements. The Board has utilized this optional method of presentation.

GASB Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*, requires the Board to apply all applicable GASB pronouncements and, unless they conflict with or contradict GASB pronouncements all Financial Accounting Standards Board (FASB) Statements and Interpretations, Accounting Principles Board Opinions, and Accounting Research Bulletins issued on or before November 30, 1989. Accordingly, the Board has not applied FASB pronouncements issued after that date.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Basis of Accounting

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

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

The Board has only governmental fund types.

Fund Accounting

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

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

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

The Board has adopted GASB Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position*. The Board has no amounts classified as deferred outflows or inflows of resources at June 30, 2019, other than those amounts required to be reported as such under GASB 68 and GASB 75. Accordingly, there is no material impact to the Board's financial position as a result of this pronouncement. However, equity is now classified as net position and displayed in three different components. These include "Net invested in capital assets" which consist of capital assets, net of accumulated depreciation and any related debt; "Restricted net position which consists of net position with constraints placed on their use either by (1) external groups such as creditors, grantors, contributors, or laws and regulations of other governments; or (2) law through constitutional provisions or enabling legislation; or "Unrestricted net position which is a net position that is neither classified as "invested in capital assets" nor as "restricted."

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Deferred Outflows and Inflows of Resources

In addition to assets, a separate section is reported for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period and will not be recognized as an outflow of resources (expense/expenditure) until then. The changes in proportion and differences between employer contributions and proportionate share of contributions as well as contributions made after the measurement period for pensions and other post-employment benefits qualify for reporting in this category.

In addition to liabilities, a separate section is reported for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position that applies to a future period and will not be recognized as an inflow of resources (revenue) until that time. Differences between expected and actual experience and between projected and actual investment earnings on pension plan investments and other post-employment benefits qualify for reporting in this category.

Budget Data

The Board prepares an annual budget. The budget is prepared on a basis similar to generally accepted accounting principles under the modified accrual basis of accounting. All annual appropriations lapse at fiscal year-end.

Pensions

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources and pension expense, information about the fiduciary net position of the Public Employees' Retirement System of Nevada (PERS) and additions to/deductions from PERS' fiduciary net position have been determined on the same basis as they are reported by PERS. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

Post-employment Benefits Other Than Pensions (OPEB)

For purposes of measuring the net OPEB liability, related deferred outflows of resources and deferred inflows of resources related to OPEB, and OPEB expense, information about the fiduciary net position of the Self Insurance Trust Fund, Public Employees' Benefit Program (PEBP) and additions to/deductions from PEBP's fiduciary net position have been determined on the same basis as they are reported by PEBP. For this purpose, PEBP recognize benefit payments when due and payable in accordance with the benefit terms. PEBP's cash and cash equivalents consist of short-term, highly liquid investments that are both (a) readily convertible to known amounts of cash and (b) so near to materiality that they present insignificant risk of changes in value due to changing interest rates.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Cash and Cash Equivalents

Cash is maintained in various commercial banks in Carson City, Nevada. The Board participates in the State of Nevada collateralization program to assure that funds deposited are protected. By statutes, all cash must be deposited in entities that are located in the State of Nevada.

Risk Management

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

The Board has bank accounts, which are insured by the Federal Deposit Insurance Corporation up to \$250,000. On June 30, 2019, the bank balances were within federally insured limits.

Subsequent Events

In preparing these financial statements, the Board has evaluated events and transactions for potential recognition or disclosure through October 31, 2019, the date the financial statements were available to be issued. Subsequent events after that date have not been evaluated.

Capital Assets

Capital assets, which include furniture, fixtures and equipment are reported in the net asset column in the government-wide financial statements. Capital assets are defined by the Board as assets with an initial, individual cost of \$1,000 and an estimated useful life of at least one year. Such assets are recorded at historical cost. Donated assets are recorded at estimated fair market value at the date of donation. Expenditures for minor replacements, maintenance, and repairs are charged to expense as incurred. Depreciation is provided over the estimated useful lives of 3 to 5 years of the related capital assets using the straight-line method for financial statement purposes.

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

Compensated Absences

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

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

Vacation and sick leave may be accumulated by employees up to certain maximums and is payable upon retirement or termination. No liability is reported for unpaid accumulated vacation or sick leave on the general fund balance sheet as no amounts were paid within 60 days subsequent to year end. Accumulated unused vacation and sick leave earned as of June 30, 2019, is reflected in the statement of net position.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 3 – COMPLIANCE WITH NEVADA STATUTES AND ADMINISTRATIVE CODES

During our audit of the fiscal year ended June 30, 2019, no apparent violation of statutory constraints on the Board's financial administration were noted.

NOTE 4 - CAPITAL ASSETS

The Board has custodial responsibility to the State of Nevada for furniture, fixtures and equipment acquired with resources of the Board. The capital asset activity during the year is as follows:

	Balance July 1, 2018	Increases	Decreases	Balance June 30, 2019
Capital assets, not being depreciated				
None				
Capital assets, being depreciated				
Office furniture and equipment	\$ 29,925	\$ 1,836	\$ -	\$ 31,761
Less accumulated depreciation	(27,355)	(1,698)	-	(29,053)
Total capital assets, being depreciated net	2,570	138	\$ -	2,708
Net capital assets	\$ 2,570	\$ 138	\$ -	\$ 2,708

NOTE 5 - OPERATING LEASES

The Board leases office space in Carson City, Nevada. The existing lease is set to expire January 31, 2021. The monthly rental payment is \$800 per month, increasing by 3% annually on February 1, which does not include CAM expenses of \$316 per month. The lease required a \$1,000 refundable security deposit. The total amount charged to expense for the fiscal year ended June 30, 2019 was \$10,012 for rent and \$3,623 for CAM expense. The following is a schedule by years of future minimum rental payments:

Year Ending June 30,	
2020	\$ 10,312
2021 and later	6,119
	<u>\$ 16,431</u>

NOTE 6 - LONG-TERM LIABILITIES

The following is a summary of changes in the Board's long-term liabilities, other than net pension liability and net other post-employment benefits liability:

	Balance July 1, 2018	Increases (Decreases)	Balance June 30, 2019	Due Within One Year
Accrued compensated absences	\$ 3,432	\$ 6,098	\$ 9,530	\$ 9,530

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 7 - DEFINED BENEFIT PENSION PLAN

General Information about the Pension Plan

Plan Description

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

Benefits Provided

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

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

Vesting

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

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

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 7 - DEFINED BENEFIT PENSION PLAN (CONTINUED)

General Information about the Pension Plan (Continued)

Contributions

The authority for establishing and amending the obligation to make contributions and member contribution rates, is set by statute. New hires, in agencies which did not elect the Employer-Pay Contribution (EPC) plan prior to July 1, 1983, have the option of selecting one of two contribution plans. Contributions are shared equally by employer and employee. Employees can take a reduced salary and have contributions made by the employer (EPC) or can make contributions by a payroll deduction matched by the employer.

The System's basic funding policy provides for periodic contributions at a level pattern of cost as a percentage of salary throughout an employee's working lifetime in order to accumulate sufficient assets to pay benefits when due.

The System receives an actuarial valuation on an annual basis indicating the contribution rates required to fund the System on an actuarial reserve basis. Contributions actually made are in accordance with the required rates established by the Nevada Legislature. These statutory rates are increased/decreased pursuant to NRS 286.421 and 286.450.

The actuarial funding method used is the Entry Age Normal Cost Method. It is intended to meet the funding objective and result in a relatively level long-term contributions requirement as a percentage of salary.

For the fiscal years ended June 30, 2018 the Statutory Employer/employee matching rate was 14.5% for Regular and 20.75% for Police/Fire. The Employer-pay contribution (EPC) rate was 28% for Regular and 40.50% for Police/Fire.

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

At June 30, 2019, the Board reported a liability of \$294,968 for its proportionate share of the net pension liability. The net pension liability was measured as of June 30, 2018, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The Board's proportion of the net pension liability was based on total contributions due on wages paid during the measurement period. Each employer's proportion of the net pension liability was based on their combined employer and member contributions relative to the total combined employer and member contributions for all employers for the period ended June 30, 2018. At June 30, 2018, the Board's proportion was .00216%.

For the year ended June 30, 2019, the Board recognized pension expense of \$40,598 and contributions made on behalf of employees of \$13,073. Amounts totaling \$29,305, resulting from Board contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended June 30, 2019. For the year ended June 30, 2019, the Board contributed \$29,305, under the statutory requirements based upon covered payroll of \$121,559 which equates to 24.1% overall to the plan. At June 30, 2019, the Board reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 7 - DEFINED BENEFIT PENSION PLAN (CONTINUED)

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

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual experience	\$ 9,241	\$ 13,692
Net difference between projected and actual earnings on pension plan investments	-	1,404
Change in assumptions	15,543	-
Changes in proportion	140,666	29,997
Board contributions subsequent to the measurement date	29,305	-
	<u>\$ 194,755</u>	<u>\$ 45,093</u>

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

<u>Year Ending June 30,</u>	
2020	\$ 6,743
2021	1,796
2022	(4,622)
2023	2,502
2024	2,868
2025 and later	389
	<u>\$ 9,676</u>

The net difference between projected and actual investment earnings on pension plan investments will be recognized over five years, all the other above deferred outflows and deferred inflows will be recognized over the average expected remaining service lives, which was 6.22 years for the measurement period ending June 30, 2018.

Actuarial Assumptions

The System's net pension liability was measured as of June 30, 2018, and the total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of that date. The total pension liability was determined using the following actuarial assumptions, applied to all periods included in the measurement:

Inflation rate	2.75%
Payroll growth	5.00%, including inflation
Investment rate of return	7.50%
Productivity pay increase	0.50%
Projected salary increases	Regular: 4.25% to 9.15%, depending on service Police/Fire: 4.55% to 13.9%, depending on service Rates include all inflation and productivity increases
Consumer price index	2.75%
Other assumptions	Same as those used in the June 30, 2018 funding actuarial valuation

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 7 - DEFINED BENEFIT PENSION PLAN (CONTINUED)

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

Actuarial Assumptions (Continued)

Actuarial assumptions used in the June 30, 2018 valuation were based on the results of the experience review completed in 2018. The discount rate used to measure the total pension liability was 7.50% as of June 30, 2018. The projection of cash flows used to determine the discount rate assumed that employee and employer contributions will be made at the rate specified in statute. Based on that assumption, the pension plan's fiduciary net position at June 30, 2018, was projected to be available to make all projected future benefit payments of current active and inactive employees. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability as of June 30, 2018.

Investment Policy

The System's policies which determine the investment portfolio target asset allocation are established by the Board. The asset allocation is reviewed annually and is designed to meet the future risk and return needs of the System. As of June 30, 2018, PERS' long-term inflation assumption was 2.75%. The following was the Board adopted policy target asset allocation as of June 30, 2018:

Asset Class	Target Allocation	Long-Term Geometric Expected Real Rate of Return
Domestic Equity	42%	5.50%
International Equity	18%	5.75%
Domestic Fixed Income	30%	0.25%
Private Markets	10%	6.80%

Sensitivity of the Board's Proportionate Share of the Net Pension Liability to Changes in the Discount Rate

The following presents the Board's proportionate share of the net pension liability of the PERS as of June 30, 2018, calculated using the discount rate of 7.50%, as well as what the Board's share of the net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower (6.50%) or 1 percentage-point higher (8.50%) than the current discount rate:

	1% Decrease (6.50%)	Discount Rate (7.50%)	1% Increase (8.50%)
Board's proportionate share of the net pension liability	\$ 449,215	\$ 294,575	\$ 166,078

Pension Plan Fiduciary Net Position

Additional information supporting the Schedule of Employer Allocations and the Schedule of Pension Amounts by Employer is located in the PERS Comprehensive Annual Financial Report (CAFR) available on the PERS website at www.nvpers.org under Quick Links - Publications.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 8 - OTHER POST EMPLOYMENT BENEFITS (OPEB)

The Nevada Public Employees Deferred Compensation Program

The Board employees are now eligible to participate in the Nevada Public Employees Deferred Compensation Program. The Program, established in 1977, is a voluntary tax-deferred supplemental retirement plan (IRC 457(b)), which provides participants and their beneficiaries with a supplement to their other retirement savings. The Program operates solely in the interest of the plan participants and beneficiaries. As a voluntary, participant-directed plan, participants bear the ongoing responsibility for deciding the amount of current compensation to defer and the selection of investment allocation and options. There are no employer contributions. No amount of deferred compensation was due to participant accounts by the Board as of June 30, 2019.

Public Employees Benefits Program of the State of Nevada

General Information About the OPEB Plan

Plan Description

Employees of the Board are provided with OPEB through the Self Insurance Trust Fund, Public Employees' Benefits Program (PEBP) – a cost-sharing multiple employer defined benefit OPEB plan administered by the Public Employees' Benefits Program Board (PEBP Board) which was created in 1983 by the Nevada Legislature to administer group health, life and disability insurance for covered employees, both active and retired, of the State, and certain other participating public employers within the State of Nevada. PEBP does not provide for refunds of employee contributions. The Self Insurance Trust Fund issues a publicly available financial report that can be obtained at <https://pebp.state.nv.us>.

The Board is reporting plan information consistent with the PEBP's accounting methods and assumptions as disclosed in the annual report. No information has come to our attention that indicates significant changes to the plan's disclosures.

Benefits Provided

PEBP provides medical, dental, vision, mental health and substance abuse and also offers fully insured HMO products. Long-term disability and life insurance benefits are fully insured by outside carriers.

Contributions

Per NRS 287 contribution requirements of the participating entities and covered employees are established and may be amended by the PEBP Board. The Boards' contractually required contribution for the year ended June 30, 2018, was \$3,527, actuarially determined as an amount that is expected to finance that costs of benefits earned by employees during the year. Employees are not required to contribute to the OPEB plan.

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 8 - OTHER POST EMPLOYMENT BENEFITS (OPEB) (CONTINUED)

OPEB Liabilities, OPEB Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to OPEB

At June 30, 2019, the Board reported a liability of \$149,378 for its proportional share of the net OPEB liability. The net OPEB liability was measured as of July 1, 2018, and the total OPEB Liability used to calculate the net OPEB liability was determined by an actuarial valuation as of that date. The Board's proportion of the net OPEB liability was based on a projection of the Board's long-term share of contributions to the OPEB plan relative to the projected contributions of all participating state agencies. Actuarially determined, at June 30, 2018, the Board's proportion was 0.0113%.

For the year ended June 30, 2019, the Board recognized OPEB expense of \$7,948. Amounts totaling \$2,702, resulting from Board contributions subsequent to the measurement date will be recognized as a reduction of the net OPEB liability in the year ended June 30, 2019. For the year ended June 30, 2019, the Board contributed \$2,702, under the statutory requirements based upon covered payroll of \$115,461 which equates to 2.34% overall to the plan. At June 30, 2019, the Board reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Changes of assumptions	\$ -	\$ 9,997
Asset Experience	-	19
Contributions subsequent to the measurement date	2,702	-
	<u>\$ 2,702</u>	<u>\$ 10,016</u>

Amounts reported as deferred outflows of resources and deferred inflows of resources related to OPEB will be recognized in OPEB expense as follows:

<u>Year Ending June 30,</u>	
2020	\$ (3,289)
2021	(3,289)
2022	(2,758)
2023	(680)
2024	-
2025 and later	-
	<u>\$ (10,016)</u>

Actuarial Assumptions

The total OPEB liability in the June 30, 2019 actuarial valuation was determined using the following actuarial assumptions, applied to all periods included in the measurement, unless otherwise specified:

Inflation rate	2.50%
Payroll growth	4.37%, average
Investment rate of return	3.87%
Healthcare cost trend rates	7.00% for 2019, see report for additional years

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 8 - OTHER POST EMPLOYMENT BENEFITS (OPEB) (CONTINUED)

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

Actuarial Assumptions (Continued)

Mortality rates were based on the RP-2000 Combined Mortality project to 2014 with Scale AA, set back one year for females. Disabled Mortality rates were based on the RP-2000 Disabled Retiree Mortality projected to 2014 with Scale AA, set forward three years.

The actuarial assumptions used in the June 30, 2019 valuation were based on the results of an actuarial valuation date of January 1, 2018, adjusted by using roll-forward procedures to determine the liability at the measurement date.

Discount Rate

The discount rate basis under GASB 75 is required to be consistent with a 20-year Municipal Bond Index. The Bond Buyer General Obligation 20-Bond Municipal Bond Index is used for the determination of the discount rate.

The discount rates as of June 30, 2018, 2017 and 2016 are 3.87%, 3.58% and 2.85% respectively. Additional detail regarding the discount rates as of June 30, 2018, 2017 and 2016 are provided in the "Actuarial Assumptions and Methods" section of the report provided by the PEBP Board.

Sensitivity of the Board's Proportionate Share of the Net OPEB Liability to Changes in the Discount Rate

The following presents the Board's proportionate share of the net OPEB liability, as well as what the Board's proportionate share of the net OPEB liability would be if it were calculated using a discount rate that is 1-percentage-point lower or 1-percentage-point higher than the current discount rate:

	1% Decrease ✓ (2.87%)	Discount ✓ (3.87%)	1% Decrease ✓ (4.87%)
Net OPEB liability (asset)	\$ 164,588	\$ 149,378	\$ 136,159

Sensitivity of the Board's Proportionate Share of the Net OPEB Liability to Changes in the Health Care Cost Trend Rates

The following presents the Board's proportionate share of the net OPEB liability, as well as what the Board's proportionate share of the net OPEB liability would be if it were calculated using health care cost trend rates that are 1-percentage-point lower or 1-percentage-point higher than the current health care trend rates:

	Health Care Cost Trend Rates		
	1% Decrease (6.00% decreasing to 3.50%)	Discount (7.00% decreasing to 4.50%)	1% Increase (8.00% decreasing to 5.50%)
Net OPEB liability (asset)	\$ 139,335	\$ 149,378	\$ 161,234

NEVADA STATE BOARD OF OPTOMETRY
Notes to Financial Statements
June 30, 2019

NOTE 8 - OTHER POST EMPLOYMENT BENEFITS (OPEB) (CONTINUED)

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

OPEB Plan Fiduciary Net Position

Detailed information about the OPEB plan's fiduciary net position is available in the separately issued PEBP financial report.

NOTE 9 - CONVERSION TO GOVERNMENT-WIDE FINANCIAL STATEMENTS

Adjustments on the face of the financial statements were made to the fund balance sheet and statement of revenue, expenditures, and changes in fund balance in order to reconcile the fund financial statements to the government-wide statements of net assets and activities. These adjustments detail the effect of the capitalization of fixed assets of \$31,761, accumulated depreciation of \$29,053, depreciation expense of \$1,698, the recognition of liabilities for unpaid compensated absences of \$9,530, the recording of the Board's proportionate share of deferred outflows of resources of \$137,409, deferred inflows of resources of \$45,093 and net pension liability of \$294,968 relating to the defined benefit pension plan detailed in Note 7, and the recording of the Board's proportionate share of deferred outflows of resources of \$2,702, deferred inflows of resources of \$10,016 and net other post-employment benefits liability of \$149,378 relating to the other post-employment benefits plan detailed in Note 8.

NOTE 10 – NEW ACCOUNTING PRONOUNCEMENTS AND PRIOR PERIOD ADJUSTMENT

During the year ended June 30, 2019, the Board implemented GASB Statement No. 75, Accounting and Financial Reporting for Post-employment Benefits other than Pensions (GASB 75) as required. The purpose of the statement is to improve accounting and financial reporting by state and local governments for post-employment benefits other than pensions (other post-employment benefits or OPEB). It also improves information provided by state and local government employers about financial support for OPEB that is provided by other entities. Total OPEB Liability (referred to as the Actuarial Accrued Liability under GASB Statement No. 45) must be determined using the Entry Age Normal actuarial cost method as opposed to the Project Unit Credit actuarial cost method under GASB Statement No. 45. This change in actuarial cost method resulted in a decrease in the Total OPEB Liability. As a result of implementing GASB Statement No. 75, the 2019 financial statements have been adjusted to reflect a restatement of beginning net position for the recognition of the net OPEB liability of \$39,278, deferred outflows of resources of \$3,527 and deferred inflows of resources of \$2,445 relating to the other post-employment benefits plan detailed in Note 8.

REQUIRED SUPPLEMENTARY INFORMATION

NEVADA STATE BOARD OF OPTOMETRY
Statement of Revenue and Expenditures – Budget and Actual
For the Year Ended June 30, 2019
(With Comparative Totals for The Year Ended June 30, 2018)

	2019		2018
	Original and Final Budget (<i>unaudited</i>)	Actual	Variance Favorable (Unfavorable)
			Actual
REVENUES			
License renewal	\$ 177,000	\$ 176,042	\$ (958)
Application and exam fees	12,000	23,250	11,250
Duplicate license fees	-	-	-
Fines	3,125	4,524	1,399
Other	64,625	72,073	7,448
Interest income	-	1,488	1,488
Total Revenues	256,750	277,377	20,627
EXPENDITURES			
Operations			
Salaries	196,500	117,626	78,874
Operating expense	40,750	42,470	(1,720)
Employee benefits	-	51,655	(51,655)
Professional services	31,000	39,453	(8,453)
Travel	7,590	7,526	64
Total Expenditures	275,840	258,730	17,110
Excess (Deficiency) of Revenues Over Expenditures	\$ (19,090)	\$ 18,647	\$ 37,737
			\$ (68,203)

See Accompanying Notes to Financial Statements

NEVADA STATE BOARD OF OPTOMETRY
Schedules of Required Supplementary Information
For the Year Ended June 30, 2019

		SCHEDULE OF THE BOARD'S PROPORTIONATE SHARE OF THE NET PENSION LIABILITY				
		Nevada State Public Employees Retirement System				
		6/30/2018	6/30/2017	6/30/2016	6/30/2015	6/30/2014
Board's proportion of the net pension liability (asset)		0.00216%	0.00155%	0.00074%	0.00116%	0.00118%
Board's proportionate share of the net pension liability (asset)	\$	294,968	\$ 205,782	\$ 99,946	\$ 132,758	\$ 122,979
Board's covered-employee payroll	\$	134,723	\$ 94,257	\$ 43,820	\$ 66,737	\$ 67,440
Board's proportionate share of the net pension liability (asset) as a percentage of its covered-employee payroll		218.94%	218.32%	228.08%	198.93%	182.35%
Plan fiduciary net position as a percentage of the total pension liability		75.21%	74.42%	72.23%	75.13%	76.31%

See Accompanying Notes to Financial Statements

NEVADA STATE BOARD OF OPTOMETRY
Schedules of Required Supplementary Information
For the Year Ended June 30, 2019

		SCHEDULE OF BOARD CONTRIBUTIONS				
		Nevada State Public Employees Retirement System				
		6/30/2018	6/30/2017	6/30/2016	6/30/2015	6/30/2014
Actuarially determined contribution		\$ 20,297	\$ 14,147	\$ 6,576	\$ 17,397	\$ 17,803
Relation to the actuarially determined contributions		20,094	13,977	6,288	16,665	16,579
Contribution deficiency (excess)		\$ 203	\$ 170	\$ 288	\$ 732	\$ 1,224
Board's covered-employee payroll		\$ 134,723	\$ 94,257	\$ 43,820	\$ 66,737	\$ 67,440
Contributions as a percentage of covered-employee payroll		14.91%	14.83%	14.35%	24.97%	24.58%

Notes: All contributions shown reflect employer-paid contributions only. Member contributions are excluded. Actuarially determined contributions above are based on actuarially determined contribution rates (employer portion only) from most recent rate-setting year prior to year shown, applied to covered payroll for year shown.

NEVADA STATE BOARD OF OPTOMETRY
Schedules of Required Supplementary Information
For the Year Ended June 30, 2019

SCHEDULE OF THE BOARD'S PROPORTIONATE SHARE OF THE
OTHER POST-EMPLOYMENT BENEFITS LIABILITY
Nevada State Public Employees Benefits Program

	<u>6/30/2018</u>	<u>6/30/2017</u>
Board's proportion of the net OPEB liability (asset)	0.01130%	0.00300%
Board's proportionate share of the net OPEB liability (asset)	\$ 149,378	\$ 39,278
Board's covered payroll	\$ 150,288	\$ 48,826
Board's proportionate share of the net OPEB liability (asset) as a percentage of its covered payroll	99.39%	80.44%
Plan fiduciary net position as a percentage of the total OPEB liability	0.12%	0.11%

See Accompanying Notes to Financial Statements

NEVADA STATE BOARD OF OPTOMETRY
Schedules of Required Supplementary Information
For the Year Ended June 30, 2019

SCHEDULE OF BOARD CONTRIBUTIONS
Nevada State Public Employees Benefits Program

	<u>6/30/2018</u>	<u>6/30/2017</u>
Contractually required contributions	\$ 4,474	\$ 1,148
Relation to the contractually required contributions	<u>(4,479)</u>	<u>(1,149)</u>
Contribution deficiency (excess)	<u>\$ (5)</u>	<u>\$ (1)</u>
Board's covered payroll	\$ 150,288	\$ 48,826
Contributions as a percentage of covered payroll	2.98%	2.35%

Only two year information is available due to reporting changes with GASB 75 for the fiscal year 2018.

Plan Changes

There have been no plan changes since the prior valuation.

Method changes

There have been no method changes since the prior valuation.

Assumption Changes

The assumed discount rate used by the actuary to determine the post-employment benefits liability at June 30, 2019 was increased to 3.87% from 3.58% at June 30, 2018. The effect of the change would result in a decrease in the liability. However, the increased contributions as a percentage of the whole increased the Board's share of the overall net OPEB liability.

See Accompanying Notes to Financial Statements

REPORTS ON INTERNAL CONTROL AND COMPLIANCE

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND
OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

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

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities of the Nevada State Board of Optometry as of and for the year ended June 30, 2019, and the related notes to the financial statements, which collectively comprise the Board's basic financial statements, and have issued our report thereon dated October 31, 2019.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the Board's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Boards' internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of Nevada State Board of Optometry' internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Board's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instance of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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American Institute of Certified Public Accountants
Affordable Housing Association of Certified Public Accountants

The Board's Response to Findings

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

Purpose of this Report

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

Steele & Associates, LLC

Carson City, Nevada
October 31, 2019

NEVADA STATE BOARD OF OPTOMETRY
Schedule of Findings and Questioned Costs
For the Year Ended June 30, 2019

**FINDINGS – FINANCIAL STATEMENTS AUDIT
SIGNIFICANT DEFICIENCIES AND MATERIAL WEAKNESSES
INTERNAL CONTROL OVER FINANCIAL REPORTING**

NONE

NEVADA STATE BOARD OF OPTOMETRY
Schedule of Prior Findings and Questioned Costs
For the Year Ended June 30, 2019

**FINDINGS – FINANCIAL STATEMENTS AUDIT
COMPLIANCE AND OTHER MATTERS
REPORTABLE INSTANCE OF NONCOMPLIANCE**

FINDING NO. 2018-001

Statement of Condition: Audited financial statements were not approved by the Board of Directors submitted to the State of Nevada Legislative Council Bureau until May 2019.

Criteria: NRS 218G.400(1.b.) requires that "each board created by the provisions of NRS 630 to 644, inclusive shall... file a report of an audit of its fiscal records with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year".

Effect of Condition: Failure to submit the audit report to the Board of Directors and subsequently to the State of Nevada Legislative Counsel Bureau, could result in the State of Nevada pursuing any and all legal remedies afforded it by Statute.

Cause of Condition: The Board's Executive Director did not complete the reconciliation of the accounting records in a timely manner sufficient to allow for a timely completion of the audit.

Recommendation: The Executive Director should endeavor to reconcile the accounting records in a timelier manner.

Comments: The Board agrees with the finding and will endeavor to complete the year end reconciliation of the accounting records in a timely manner.

AUDITOR'S COMMENTS

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. The following material misstatement detected as a result of audit procedures were corrected by management:

1. Accrue additional accounts payable of \$9,500.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated October 31, 2019.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition of our retention.

As required by generally accepted auditing standards and the terms of our engagement, in planning and performing our audit, we considered the internal control solely to determine the auditing procedures to be employed for the purpose of enabling us to express our opinion on the financial statements and not for the purpose of expressing an opinion on the effectiveness of the Board's internal control over financial reporting. Therefore, we express no opinion or other form of assurance thereon.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. Our report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards* dated October 31, 2019, noted no material weaknesses, or significant deficiencies.

To the Nevada State Board of Optometry

We have audited the basic financial statements of the Nevada State Board of Optometry for the year ended June 30, 2019 and have issued our report thereon dated October 31, 2019. Professional standards require that we provide you with information about our responsibilities under generally accepted audit standards, as well as certain information related to the planned scope and timing of our audit. We have communicated such information to you in our engagement letter dated July 13, 2018. Professional standards also require that we communicate to you the following information related to our audit.

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

Other Information in Documents Containing Audited Financial Statements

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

Significant Audit Matters

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Nevada State Board of Optometry are described in the financial statements. GASB Statement No. 75, Accounting and Financial Reporting for Post-employment Benefits Other than Pensions (GASB 75) was adopted in the prior period. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

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

The financial statement disclosure are neutral, consistent and clear.

Difficulties Encountered in Performing the Audit

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

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

Stule : Associates, LLC

Carson City, Nevada
October 31, 2019

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND
OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

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

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities of the Nevada State Board of Optometry as of and for the year ended June 30, 2019, and the related notes to the financial statements, which collectively comprise the Board's basic financial statements, and have issued our report thereon dated October 31, 2019.

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Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Board's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instance of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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The Board's Response to Findings

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

Purpose of this Report

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

Steele & Associates, LLC

Carson City, Nevada
October 31, 2019

Materials for Agenda Item

No. 5

Consideration and approval of LCB draft of Board proposed revisions to NAC 636. Further revisions to NAC 636 raised by members of the Board may also be considered under this agenda item.

**PROPOSED REGULATION OF THE
NEVADA STATE BOARD OF OPTOMETRY**

LCB File No. R066-19

November 22, 2019

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

AUTHORITY: §§1, 10, 13-16, 37-43 and 45, NRS 636.125; §§2 and 6, NRS 636.125 and section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636; §3, NRS 636.110 and 636.125; §4, NRS 636.125 and 636.135; §5, NRS 636.125, 636.250 and 636.260; §7, NRS 636.125, 636.143, 636.287, 636.2893 and 636.350 and section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636; §8, NRS 636.125 and 636.260; §9, NRS 636.125 and section 4.5 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3637; §11, NRS 622A.360, 622A.390 and 636.125; §12, NRS 636.125 and 636.373; §17, NRS 636.125, 636.150 and 636.180; §§18 and 20-28, NRS 636.125, 636.302 and 636.380; §§19 and 44, NRS 636.125 and 636.287; §29, NRS 636.125, 636.350 and 636.360; §30, NRS 636.125 and 636.350; §31, NRS 636.125 and section 3 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3635; §32, NRS 636.125 and 636.295; §33, NRS 636.125 and 636.372; §34, NRS 636.125 and 636.300; §35, NRS 636.125 and 636.2893; §36, NRS 636.125 and 636.375.

A REGULATION relating to optometry; prescribing requirements concerning the licensure and operation of a mobile optometry clinic; approving the accreditation of certain schools of optometry; prescribing certain requirements governing the issuance and renewal of licenses and certificates issued by the Nevada State Board of Optometry and the practice of optometry; prescribing fees for certain services of the Board; requiring a licensee to report certain criminal, civil or regulatory actions to the Board; revising provisions governing the advertisement and promotion of optometric services; revising the grounds for disciplinary action against an optometrist; revising provisions governing procedure in proceedings of the Board; revising procedures relating to the submission of certain petitions to the Board and the consideration of such petitions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain persons and entities to obtain a certificate from the Nevada State Board of Optometry to own or operate a mobile optometry clinic. A certified mobile optometry clinic is only authorized to provide optometric services to governmental agencies, patients with impaired or restricted mobility, members of low-income and other medically underserved groups and academic programs. (Section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636) **Section 2** of this regulation defines the terms “medically underserved” and “mobile optometry clinic.” **Section 3** of this regulation provides that the Board will maintain an account that contains an amount of money that is sufficient to pay the operating expenses of the Board for at least 13 months. **Section 6** of this regulation: (1) requires an application for the issuance or renewal of a certificate to operate a mobile optometry clinic to include a physical address associated with the clinic; and (2) imposes certain requirements relating to the records of a mobile optometry clinic.

Existing law requires the Board to accredit schools which provide a sufficient and thorough course of study for the preparation of optometrists or approve the accreditation of such schools by any nationally recognized accrediting organization or agency. (NRS 636.135) **Section 4** of this regulation provides that the Board approves the accreditation of schools by the Accreditation Council on Optometric Education, or its successor organization.

Existing law requires the Board to impose fees for certain services. (NRS 636.143) Existing law also requires a person applying for a license to practice optometry to file with the Board proof of his or her qualifications, pass certain examinations and pay the prescribed fees. (NRS 636.150) **Section 5** of this regulation prescribes requirements governing the submission of an application for a license, and **section 7** of this regulation prescribes a schedule of fees for services of the Board. **Section 17** of this regulation specifies the examinations that an applicant must pass and makes certain other revisions concerning an application for a license. **Section 45** of this regulation repeals a provision concerning reexaminations.

Existing law requires: (1) the biennial renewal of a license to practice optometry; and (2) requires a licensee to complete the continuing education prescribed by the Board during each renewal period. (NRS 636.260) **Section 8** of this regulation prescribes the required hours and subject matter of that continuing education and the criteria the Board will use to determine whether to approve continuing education.

Existing law prohibits an optometrist from treating a person diagnosed with glaucoma unless the optometrist has been issued a certificate to treat such a patient. (NRS 636.2891) Existing law authorizes the Board to issue a certificate by endorsement to treat a person diagnosed with glaucoma to a person who holds a similar credential in another jurisdiction. (Section 4.5 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3637) **Section 9** of this regulation requires an applicant for a certificate by endorsement to: (1) be a licensed optometrist in this State; and (2) possess a valid certificate to administer and prescribe pharmaceutical agents. **Section 35** of this regulation revises the requirements to receive a certificate to treat a patient who has been diagnosed with glaucoma.

Section 10 of this regulation prescribes requirements relating to the records maintained by an optometrist.

Assembly Bill No. 77 of the 2019 Legislative Session removed provisions governing procedure for disciplinary hearings before the Board and instead requires such hearings to be conducted in accordance with general provisions of law governing hearings before regulatory bodies. (Sections 48.3 and 65 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at pages 3650 and 3659) Those general provisions of law authorize a regulatory body to allow the president or chair of a regulatory body to rule on a motion. (NRS 622A.360, 622A.390) **Section 11** of this regulation authorizes the President of the Board or, in his or her absence, the Vice President, if any, to rule on a motion. **Sections 32, 33 and 45** of this regulation revise the grounds for disciplinary action against an optometrist. **Sections 36-39** of this regulation make revisions concerning the procedure for disciplinary proceedings before the Board. **Section 45** also repeals provisions that are duplicative of general provisions of law that now apply to proceedings before the Board.

Existing law authorizes an optometrist to form an association or other business relationship with a physician to provide their respective services to patients. (NRS 636.373) **Section 12** of this regulation prescribes certain requirements relating to such a relationship. **Section 12** also authorizes an optometrist to form an association or other business relationship with an unlicensed person to perform certain duties concerning the operation of business.

Section 13 of this regulation prohibits an optometrist from charging a fixed fee for certain premium intraocular lenses that exceeds the fixed fee for a standard intraocular lens. **Section 14** of this regulation requires a licensee to report to the Board certain criminal, civil or regulatory actions against the licensee. **Sections 15, 16 and 18** of this regulation revise certain definitions related to the practice of optometry.

Assembly Bill No. 77 of the 2019 Legislative Session revised the terminology used to describe a certificate to administer and prescribe therapeutic pharmaceutical agents to instead refer to a certificate to administer and prescribe pharmaceutical agents. (Section 37 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3646) **Sections 19, 35 and 44** of this regulation make corresponding changes to existing regulations. **Section 44** of this regulation also removes certain requirements concerning a training program that an optometrist must complete to receive such a certificate. **Sections 20-28** of this regulation revise provisions governing the advertisement and promotion of optometric services and products.

Assembly Bill No. 77 of the 2019 Legislative Session removed a prohibition on practicing optometry under an assumed or fictitious name that is not registered with the Board and instead prohibits an optometrist from owning all or any portion of an optometry practice under an unregistered assumed or fictitious name. (NRS 636.350, as amended by section 49 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3652) **Sections 29 and 30** of this regulation make corresponding changes to existing regulations. **Section 29** of this

regulation also revises the number of days that an optometrist may practice optometry at a location that is not registered with the Board.

Existing law authorizes an assistant to perform certain tasks in an optometric practice. (Section 3 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3635) **Section 31** of this regulation clarifies that an optometrist may employ an assistant without violating a prohibition on employing an unlicensed person to perform any services for which an optometrist's license is required.

Existing regulations require a licensee who locates his or her office in a part of a building where an unlicensed person conducts business to construct and maintain a partition or wall to separate the office of the licensee from the business of the unlicensed person. (NAC 636.250) **Section 34** of this regulation: (1) limits this provision to apply only to an optometrist who locates his or her office in a part of a building where an unlicensed person conducts an optical retail business; and (2) additionally requires the optometrist to maintain a separate reception area, cash drawer, scheduling system, staff, computerized system and physical space from the optical retail business. **Section 34** also prohibits an optometrist from: (1) using legal representation paid for or arranged by an unlicensed person who conducts an optical retail business in certain proceedings; and (2) serving as an employee or independent contractor of an unlicensed person except in certain circumstances authorized by law.

Existing regulations provide for the Board to consider petitions for declaratory orders or advisory opinions or petitions for the adoption, amendment or repeal of a regulation. (NAC 636.650, 636.660) **Sections 40 and 41** of this regulation make revisions concerning the submission and consideration of such petitions. **Sections 42 and 43** of this regulation revise provisions governing prescriptions for spectacle lenses and contact lenses.

Section 1. Chapter 636 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636:*

1. "Medically underserved group" means a population that:

(a) Has been designated as a medically underserved population by the United States

Secretary of Health and Human Services pursuant to 42 U.S.C. § 254c; or

(b) Resides in an area that has been designated as a health professional shortage area by the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 254e.

2. “Mobile optometry clinic” means:

(a) A vehicle in which an optometrist provides optometric services; or

(b) An optometrist who provides services in locations other than his or her office.

Sec. 3. The Board will maintain in an account separate from its general operating account an amount of money that is sufficient to pay the operating expenses of the Board for at least 13 months.

Sec. 4. For the purposes of NRS 636.135, the Board approves the accreditation of schools by the Accreditation Council on Optometric Education, or its successor organization.

Sec. 5. 1. An application for the renewal of a license or certificate must be in the form prescribed by the Board. The application must be accompanied by the fee required by section 7 of this regulation.

2. The renewal of a license or certificate pursuant to NRS 636.250 or section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636, is effective on the date on which a complete application containing all required materials and fees is postmarked or received electronically by the Executive Director.

Sec. 6. 1. An application for the issuance or renewal of a certificate to own or operate a mobile optometry clinic must include, without limitation, a physical address associated with the mobile optometry clinic.

2. *If a licensee provides services for a mobile optometry clinic that is not operated by the licensee, the records of the patients whom the licensee treats shall be deemed to be the records of the licensee and are not the records of the mobile optometry clinic.*

3. *A licensee who provides services for a mobile optometry clinic shall maintain a record of the dates and locations at which the services were provided and retain the record in accordance with NRS 629.051.*

Sec. 7. *The Board will charge and collect:*

1. *For an initial application for a license, a nonrefundable fee in the amount of \$75 plus \$93.75 for each calendar quarter or portion thereof remaining in the biennial licensing period until the renewal date prescribed by NRS 636.265, not to exceed a total of \$825.*

2. *For a certificate to own or operate a mobile optometry clinic, a nonrefundable fee in the amount of \$75 plus \$93.75 for each calendar quarter or portion thereof remaining in the biennial licensing period until the renewal date prescribed by section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636, not to exceed a total of \$825.*

3. *The following nonrefundable fees:*

- (a) Initial application for a license by endorsement\$450*
- (b) Initial application for a certificate to administer and prescribe
pharmaceutical agent.....\$75*
- (c) Initial application for a certificate to treat a person diagnosed with
glaucoma\$175*

<i>(d) Initial application for a certificate by endorsement to treat a person diagnosed with glaucoma</i>	<i>\$175</i>
<i>(e) Biennial renewal of active license with one practice location</i>	<i>\$750</i>
<i>(f) Biennial renewal of inactive license.....</i>	<i>\$500</i>
<i>(g) Biennial renewal of a certificate to own or operate a mobile optometry clinic.....</i>	<i>\$600</i>
<i>(h) Late fee for reinstatement of license suspended pursuant to NRS 636.275.....</i>	<i>\$500</i>
<i>(i) Activation of inactive license</i>	<i>\$250</i>
<i>(j) Addition of a practice location associated with a license.....</i>	<i>\$200</i>
<i>(k) Biennial renewal fee for two or more practice locations, in addition to the fee prescribed in paragraph (e)</i>	<i>\$200</i>
	<i>per additional practice location</i>
<i>(l) Registration of assumed or fictitious name.....</i>	<i>\$50</i>
	<i>per location</i>
<i>(m) Change of practice location</i>	<i>\$25</i>
<i>(n) Letter of good standing</i>	<i>\$25</i>
<i>(o) Replacement license or certificate</i>	<i>\$75</i>
<i>(p) Replacement renewal card issued pursuant to NRS 636.265</i>	<i>\$25</i>

Sec. 8. 1. *Except as otherwise provided in subsection 2, a licensee must complete at least 40 hours of continuing education during the 2 years immediately preceding the date on which a license is required to be renewed. Not more than 5 hours of the required continuing education may be in the subject of practice management.*

2. A licensee who is certified to administer and prescribe pharmaceutical agents must complete at least 50 hours of continuing education during the 2 years immediately preceding the date on which a license must be renewed. At least 30 hours of the required continuing education must be related to pharmaceutical agents or disease. Not more than 10 hours of the required continuing education may be in the subject of practice management.

3. Continuing education may be completed in person, over the Internet or by correspondence or videoconference. For continuing education that is not completed in person, the licensee must submit proof that he or she received a score of at least 75 percent on the examination for the course.

4. Continuing education will be awarded in 15 minute increments. Instruction time must be rounded to the nearest 15 minutes, except that 50 minutes or more of instruction may be rounded up to the nearest hour. A licensee may not receive credit for more than 10 hours of continuing education during any 24 hour period.

5. The Board will approve continuing education in appropriate subjects that is provided or approved by:

(a) A school of optometry approved by the Accreditation Council on Optometric Education, or its successor organization;

(b) A regional, state or national optometric association;

(c) The Council on Optometric Practitioner Education, or its successor organization; or

(d) For continuing education completed to satisfy the requirements of NRS 636.2881 or subsection 6 of NRS 636.338, the American Medical Association or its successor organization as Category 1 continuing medical education.

6. The Board will approve continuing education not described in subsection 5 if:

(a) The provider of the continuing education submits to the Board a course syllabus or program and the name of the licensee who will complete the course before the date on which the continuing education is provided or the licensee includes the continuing education on the form for proof of completion of continuing education submitted pursuant to NRS 636.260; and

(b) The Board determines that the training is appropriately rigorous, is provided by a qualified provider and concerns an appropriate subject.

7. The Board will notify a licensee if continuing education submitted for approval pursuant to subsection 6 is not approved.

8. A licensee shall not submit the form for proof of completion of continuing education pursuant to NRS 636.260 until all continuing education required by subsection 1 or 2, as applicable, has been completed.

Sec. 9. In addition to meeting the requirements prescribed by section 4.5 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3637, an applicant for a certificate by endorsement to treat a person diagnosed with glaucoma must:

- 1. Be licensed and in good standing to practice optometry in the State of Nevada.*
- 2. Possess a valid certificate to administer and prescribe pharmaceutical agents issued pursuant to NRS 636.288.*

Sec. 10. 1. If an optometrist provides services as an employee, the records relating to those services belong to the employer. In all other cases, the records belong to the optometrist.

2. An optometrist who is the custodian of his or her own records shall designate a successor to serve as the custodian of those records if the optometrist is not able to continue to maintain his or her practice. The successor must:

(a) Be an optometrist or ophthalmologist licensed in this State or a person in the business of serving as the custodian of health records;

(b) Agree to be designated as successor to the optometrist in writing on a form prescribed by the Board; and

(c) Comply with all requirements of federal and state law concerning the protection and delivery of health-related information.

Sec. 11. The President of the Board or, in the absence of the President, the Vice President of the Board, if any, may decide any motion listed in NRS 622A.360 or 622A.390. If the President or Vice President, as applicable, determines that it is most appropriate for the Board to decide the motion, the President or Vice President, as applicable, may decline to decide the motion. When so declined, the Board will schedule a meeting to decide the motion in a timely manner.

Sec. 12. 1. If an optometrist forms an association or other business relationship with a physician pursuant to NRS 636.373, the optometrist must:

(a) Comply with any applicable requirements of the Internal Revenue Service;

(b) Maintain financial and organizational independence from any person who is not licensed to practice optometry, other than the physician; and

(c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including,

without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship.

2. An optometrist shall not employ or be employed by a physician.

3. An optometrist may form an association or other business relationship with a person, other than a physician, who is not licensed to practice optometry to perform duties concerning the operation of the business. Such duties must be limited to duties concerning the operation of the business and may include, without limitation, performing services related to payroll, human resources, real estate, regulatory matters not related to health care, banking, accounting, administration of benefits, marketing, merchandising, occupancy, accounts payable, accounts receivable, supply chain management, business development, business administration, labor, compliance with applicable laws and regulations, purchasing and medical billing.

4. An optometrist who forms an association or other business relationship with a person who is not licensed to practice optometry pursuant to subsection 3 shall maintain organizational and financial independence from the person who is not licensed to practice optometry and ensure that the person who is not licensed to practice optometry is not involved in:

(a) Clinical decisions;

(b) Scheduling of patients;

(c) Management of work;

(d) Any decision concerning scope of practice or use of facilities, equipment or drugs; or

(e) Any other decision concerning the provision of care to a patient or the outcome of any treatment or other service provided to a patient.

Sec. 13. An optometrist shall not charge a patient a fixed fee pursuant to NRS 636.374 for a multifocal, toric or other premium intraocular lens in an amount that exceeds the fixed fee that the optometrist charges pursuant to NRS 636.374 for a standard intraocular lens.

Sec. 14. 1. A licensee or applicant for a license shall report to the Board not later than 30 days after:

(a) Being charged with or convicted of a crime, other than a minor traffic violation, in this State, any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country or by the Federal Government or a branch of the Armed Forces of the United States;

(b) Any disciplinary action is taken against the licensee or applicant by a licensing authority in this State, any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country;

(c) A civil action relating to the practice of optometry is filed against the licensee or applicant in a federal court or court of this State, any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country; or

(d) An extended order for protection against domestic violence is issued against the licensee pursuant to NRS 33.020 or a similar statute in any other state, the District of

Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country.

2. The Executive Director or his or her designee will review a report made pursuant to subsection 1 and conduct any investigation he or she determines is necessary to ascertain the facts concerning the incident described in the report. Such an investigation may include, without limitation, requiring the licensee or applicant to provide information concerning the incident.

Sec. 15. NAC 636.050 is hereby amended to read as follows:

636.050 “Office” means any office , *motor vehicle or trailer operated as a mobile optometry clinic* 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.

Sec. 16. NAC 636.055 is hereby amended to read as follows:

636.055 “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 ~~[, and ocular solutions and ointments.]~~ , *devices and pharmaceutical agents.*

Sec. 17. NAC 636.075 is hereby amended to read as follows:

636.075 1. The ~~[examination]~~ *examinations* required pursuant to NRS 636.150 ~~[will]~~ consist of ~~[two parts, as follows:]~~ :

(a) The ~~[examination]~~ *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 its successor organization;* 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, the Board ~~{will}~~ *may* approve the application for licensure of the applicant. *The Board will notify the applicant whether the application is approved. Upon receiving notice of approval, the applicant must pay the fee prescribed by section 7 of this regulation and provide to the Board a list of the addresses at which he or she will practice. Not later than 60 days after receiving the fee and list, the Board will issue a license to the applicant.*

Sec. 18. NAC 636.110 is hereby amended to read as follows:

636.110 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 *the most current version of* those specifications, if applicable; or
2. Do not meet *the most current version of* those specifications, if applicable.

Sec. 19. NAC 636.115 is hereby amended to read as follows:

636.115 An optometrist who is certified to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288:

1. May represent himself or herself 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.

Sec. 20. NAC 636.120 is hereby amended to read as follows:

636.120 **1. *An optometrist may represent his or her professional designation as:***

(a) Optometrist;

(b) O.D.;

(c) OD;

(d) Doctor of Optometry;

(e) Dr. of Optometry; or

(f) Another designation approved by the Board that the Board determines is not misleading.

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.

Sec. 21. NAC 636.130 is hereby amended to read as follows:

636.130 **1.** A licensee shall post a sign at the entrance to ~~his or her~~ **any** office ~~that specifies~~ **where he or she practices optometry. The sign must include, without limitation,** the licensee's ~~full~~ **last** name, **as it appears on his or her license, the** professional designation **of the licensee** and the hours during which the office is open.

2. A sign posted at a location which is remote from the office must specify **, without limitation,** the ~~full~~ **last** name of the licensee **as it appears on his or her license** and his or her professional designation.

Sec. 22. NAC 636.140 is hereby amended to read as follows:

636.140 **1.** Any printed *or electronic* advertisement *for an optometrist licensed to practice in this State or an ophthalmic product offered by an optometrist* must contain ~~the full~~ :

(a) *The last* name of the optometrist , *as it appears on his or her license*, and his or her professional designation ~~the~~ ; or

(b) *The assumed or fictitious name registered with the Board by the optometrist pursuant to NRS 636.350.*

2. Any disclaimer in ~~the~~ *a printed or electronic* advertisement *for an optometrist or an ophthalmic product offered by an optometrist* must be printed in such a manner as to allow a reasonable person to read and understand it.

3. *A printed or electronic advertisement for the services of an optometrist or an ophthalmic product offered by an optometrist must be presented in a manner that is clearly separate from any advertisement paid for or produced by a person who is not licensed to practice optometry.*

Sec. 23. NAC 636.142 is hereby amended to read as follows:

636.142 **1.** Any broadcast advertisement placed by an optometrist licensed to practice in this State must include an oral statement of ~~the full~~ :

(a) *The last* name of the optometrist *as it appears on his or her license* and his or her professional designation ~~the~~ ; or

(b) *The assumed or fictitious name registered with the Board by the optometrist pursuant to NRS 636.350.*

2. Any disclaimer in ~~{the}~~ *a broadcast* advertisement *placed by an optometrist* must be displayed or communicated in such a manner that a reasonable person would have the opportunity to read or hear and understand it.

3. *A broadcast advertisement placed by an optometrist must be clearly separate from any advertisement paid for or produced by an unlicensed entity.*

Sec. 24. NAC 636.145 is hereby amended to read as follows:

636.145 A licensee may use a symbol *or logo* for advertising *only* if it is:

1. Displayed with ~~{the full}~~ :

(a) *The last name of the licensee as it appears on his or her license* and *the* professional identification of the licensee; *or*

(b) *The assumed or fictitious name registered with the Board by the licensee pursuant to NRS 636.350;* and

2. Printed no more prominently than the name and professional ~~{identification}~~ *designation* of the licensee.

Sec. 25. NAC 636.150 is hereby amended to read as follows:

636.150 1. Advertising of *an* ophthalmic ~~{products}~~ *product or device* must include ~~{the following information and, if printed, the information must be printed as prominently as the words promoting the product:~~

~~—1.}~~ *, without limitation:*

(a) 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.~~

~~3.1~~ (b) 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.

2. If advertising of an ophthalmic product or device is printed or electronic, the information described in subsection 1 must be printed as prominently as the words promoting the product.

Sec. 26. NAC 636.160 is hereby amended to read as follows:

636.160 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 *advertised* 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.

Sec. 27. NAC 636.170 is hereby amended to read as follows:

636.170 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 ~~if not, the cost of all the required accessories~~ *fees for any required fitting or evaluation*.

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.

Sec. 28. NAC 636.190 is hereby amended to read as follows:

636.190 An advertisement of *an* optometric ~~examinations~~ *examination, eye examination, vision examination, 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.

Sec. 29. NAC 636.210 is hereby amended to read as follows:

636.210 1. An optometrist shall not:

(a) ~~Practice optometry or maintain an ownership interest in~~ *Own any part of* an office where optometry is practiced under any name other than the name on his or her license ~~or~~ *under a fictitious or assumed name registered with the Board pursuant to NRS 636.350.*

(b) Represent himself or herself 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.

(c) Except as otherwise provided in subsection 3, practice optometry at an office that is not registered with the Board.

2. ~~Except as otherwise provided by subsection 3, an~~ *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~~ *at an* office ~~without displaying his or her license or a duplicate of his or her license to practice optometry at that location~~ *that is not registered with the Board* for not more than ~~14~~ *28* working days during ~~the~~ *a renewal* period ~~from March 1 to February 29~~ *, as set forth in NRS 636.250*, if the

optometrist notifies the Board in writing of the day and place of such practice. The notice must be given to the Board at least 24 hours before the optometrist 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 this chapter or chapter 636 of NRS, including, without limitation, for* unprofessional conduct ~~of~~ *, by* the optometrist he or she employs which takes place during the performance of services pursuant to such employment.

Sec. 30. NAC 636.215 is hereby amended to read as follows:

636.215 1. An optometrist shall not ~~practice~~ *own any portion of an* optometry *practice* under an assumed or fictitious name *, including, without limitation, a name stating that he or she is “doing business as” followed by another name,* unless he or she has been issued a certificate of registration by the Board to practice optometry under the assumed or fictitious name ~~at~~ *at the office where the optometrist practices pursuant to NRS 636.350.*

2. Before a licensee may ~~use or display~~ *own any portion of an optometry practice under* an assumed or fictitious name *, in any manner or medium,* the licensee 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~~ *each* appropriate local governmental entity that issues business licenses *or registers assumed or fictitious names* for the county in which the optometrist proposes to *own any portion of an optometry* practice under the assumed or fictitious name, which verifies the local governmental entity has approved the use of the assumed or fictitious name by the licensee.

3. The Board will not approve an application for a certificate of registration to ~~practice~~ *own any portion of an* optometry *practice* 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 practices under a fictitious or assumed name at a medical or surgical facility, the assumed or fictitious name must include the professional designation of the licensee.*

5. If a licensee uses or displays an assumed or fictitious name 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.

Sec. 31. NAC 636.220 is hereby amended to read as follows:

636.220 ~~{A}~~ *Except as authorized by section 3 of Assembly Bill No. 77, Chapter 568, Statutes of Nevada 2019, at page 3635, 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.

Sec. 32. NAC 636.230 is hereby amended to read as follows:

636.230 For the purposes of NRS 636.295, the Board will consider the failure of a licensee to comply with any provision of *a federal, state or local law, ordinance or regulation relating to the provision of optometric services, including, without limitation, any provision of this chapter or chapter 636 of NRS* , ~~for NAC which relates to the practice of optometry~~ to constitute unprofessional conduct.

Sec. 33. NAC 636.240 is hereby amended to read as follows:

636.240 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 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~~ *premises* to be leased ~~H~~ *and any equipment to be leased.*

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

Sec. 34. NAC 636.250 is hereby amended to read as follows:

636.250 *1.* 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~~ :

(a) Construct and maintain a partition or wall in such a manner as to ensure a clear separation between his or her office and the business of the person who is not licensed ~~H~~ ; *and*

(b) Maintain a separate reception area, cash drawer, scheduling system, staff, computerized system and physical space from those of the optical retail business.

2. A licensee shall not:

(a) Use legal representation paid for or arranged by a person who is not licensed pursuant to the provisions of chapter 636 of NRS who conducts an optical retail business in any proceeding before the Board concerning the business relationship between the licensee and other person; or

(b) Except as otherwise authorized by NRS 636.347, serve as an employee or independent contractor of any person who is not licensed to practice optometry.

Sec. 35. NAC 636.280 is hereby amended to read as follows:

636.280 To receive a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895, 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”~~ *Treatment* and Management of Ocular Disease ~~Examination”~~ *Examination* administered by the National Board of Examiners in Optometry ~~[on or after January 1, 1993.]~~ *or its successor organization.*
4. 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) The name, address and license number of the optometrist;
 - (b) ~~The name of~~ *An identifier for* each patient treated, the date on which the 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;
 - (c) 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) A statement that the consulting ophthalmologist has diagnosed the patients with glaucoma ~~or~~ *or confirmed a diagnosis of glaucoma by the optometrist;* and
 - (e) The signatures of the optometrist, the consulting ophthalmologist and a notary public attesting to the accuracy of the information.

Sec. 36. NAC 636.380 is hereby amended to read as follows:

636.380 Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders must be served upon the attorney *in the manner prescribed by NRS 636.375* and such service is effective for all purposes upon the party represented by the attorney.

Sec. 37. NAC 636.400 is hereby amended to read as follows:

636.400 A ~~{person appearing in}~~ *party to* a proceeding before the Board , *an attorney appearing on behalf of a party or any other person in attendance at such a proceeding* shall ~~{conform to the recognized standards of ethical and courteous conduct.}~~ *conduct himself or herself in a respectful manner.*

Sec. 38. NAC 636.480 is hereby amended to read as follows:

636.480 There 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:

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 sending a copy by electronic mail, properly addressed to the person at the electronic mail address on file with the Board, to)*

Dated at this day of the month of of the year

.....

Signature

Sec. 39. NAC 636.600 is hereby amended to read as follows:

636.600 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 , *any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States* or any court of record.

Sec. 40. NAC 636.650 is hereby amended to read as follows:

636.650 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. ~~{All petitions}~~ *A petition* for *a* declaratory ~~{orders and}~~ *order or* advisory ~~{opinions}~~ *opinion* must be in writing using ~~{substantially the format of a}~~ *the* 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.}~~ *place the matter on the agenda for discussion at the next regularly scheduled meeting of the Board. If the petition is received within 30 days before the next regularly scheduled meeting of the Board, the Board may place the matter on the agenda for discussion at the meeting immediately following that meeting.*

4. *If a petition for a declaratory or advisory opinion is placed on the agenda for discussion at a meeting of the Board, the Board will consider any information relevant to the*

petition at that meeting. Such information may include, without limitation, oral or written testimony. After considering such information, the Board will grant or deny the petition.

5. If the Board denies a petition, no further action will be taken. If the Board grants a petition, the Board will issue the declaratory order or advisory opinion at its next regular meeting. The petitioner shall comply with the declaratory order or advisory opinion.

Sec. 41. NAC 636.660 is hereby amended to read as follows:

636.660 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 ~~[-]~~ *and must include, without limitation:*

(a) The name and address of the petitioner;

(b) The reason for the petition;

(c) The language that the petitioner is proposing to adopt, amend or repeal;

(d) The statutory authority for the proposed adoption, amendment or repeal; and

(e) Any relevant information or argument in support of the petition.

2. ~~[-Within]~~ *The Board may refuse to act on a petition that does not include the information required by subsection 1.*

3. *Except as otherwise provided in subsection 2, within* 30 days of the submission of the petition, the Board will ~~[-deny]~~ :

(a) Notify the petitioner of its decision to grant or deny the petition ~~[-in writing, stating its reasons or initiate]~~ ; and

(b) If the Board grants the petition, initiate proceedings in accordance with NRS 233B.060.

Sec. 42. NAC 636.670 is hereby amended to read as follows:

636.670 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.

Sec. 43. NAC 636.680 is hereby amended to read as follows:

636.680 1. ~~[Except as otherwise provided in this section, a]~~ 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 must *include the date on which the prescription expires and must* be:

- (a) Provided to the patient ~~[, upon an oral or written request from the patient.~~
~~—(b) Released to]~~ *or* an authorized agent of the patient, ~~[upon a written request from the patient.]~~ *as required by 16 C.F.R. § 315.3; or*
~~{{(c)}}~~ *(b)* Verified to an authorized agent of the patient, ~~[upon a written request from the patient.]~~ *as required by 16 C.F.R. §315.5.*

2. An optometrist shall not release a prescription for a ~~[polymethylmethacrylate (Hydrophobic) contact lens,]~~ rigid gas permeable contact lens or soft ~~{{(Hydrophilic)}}~~ 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 ~~{{(Hydrophilic)}}~~ 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 ~~{{(Hydrophilic)}}~~ contact lens, no changes may be made in the brand or type of lens prescribed without the issuance of a new prescription. *The brand name and type of the lens dispensed must be identical to the brand name and type of the*

lens prescribed. 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 ~~{(Hydrophilic)}~~ 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 (Hydrophilic) contact lens before an optometrist 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.}~~

Sec. 44. NAC 636.730 is hereby amended to read as follows:

636.730 1. The Board shall provide a certificate to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents 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”}~~ ***Treatment*** and Management of Ocular Disease ~~{Examination”}~~ ***Examination*** administered by the National Board of Examiners in Optometry ~~{on or after~~

~~January 1, 1993.}~~ ***or its successor organization.*** 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; *and*

(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. On ~~{the same}~~ *a separate* form ~~{~~ *provided by the Executive Director*, 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}~~ *forms* 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~~ or optometrist , *as applicable*, which are required by this section; and

(c) Provide space and appropriate designations for the notarization of the signatures of the ophthalmologist ~~and~~ or optometrist ~~and~~ , *as applicable*.

Sec. 45. NAC 636.080, 636.235, 636.310, 636.320, 636.330, 636.340, 636.350, 636.360, 636.370, 636.390, 636.410, 636.420, 636.430, 636.440, 636.450, 636.460, 636.470, 636.490, 636.500, 636.510, 636.520, 636.530, 636.540, 636.550, 636.560, 636.570, 636.580, 636.590, 636.610, 636.620, 636.630, 636.640 and 636.700 are hereby repealed.

TEXT OF REPEALED SECTIONS

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 the applicant wishes to be reexamined on that part of the examination prepared by the Board, apply to the Board.

(b) If the applicant 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.

636.235 Violation of NRS 636.2882. (NRS 636.125, 636.295) A violation of NRS 636.2882 constitutes unprofessional conduct.

636.310 Scope. (NRS 636.125) The provisions of NAC 636.310 to 636.660, inclusive, govern all practice and procedure before the Board whenever the Board is acting as an agency, as that term is defined in NRS 233B.031.

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.

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 or she may be affected by a proceeding, but who does not seek to participate in the proceeding.

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.

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 or her possible interest in the proceeding.

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

636.370 Representation of parties. (NRS 636.125) 1. A party is entitled to be heard in person or by the party’s 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.

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 or she represented and all other parties to the proceeding of his or her withdrawal.

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.

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.

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.

636.440 Verification. (NRS 636.125) All pleadings must be verified.

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.

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.

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.

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 or her.

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.

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.

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.

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.

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 or her own behalf or present such other evidence as may be beneficial to his or her cause.

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

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

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.

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 or she is about to give in the hearing before the Board will be the truth, the whole truth and nothing but the truth.

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.

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.

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.

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.

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.

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.

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 7 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.

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.

Materials for Agenda Item

No. 6

Executive Director's Report

- A. Flooding of office space.
- B. Preparation for license renewals.
- C. Website revisions.

NEVADA STATE BOARD OF OPTOMETRY

ASSUMED OR FICTITIOUS NAME CERTIFICATE

FACT SHEET 2019

NRS 636.350 requires that each **owner** of an entity using an assumed or fictitious name **prior to practicing** under the assumed or fictitious name (or DBA) **or using it, must be issued a certificate from the Board.** 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.

Persons practicing optometry as an Entity

For Nevada professional entities, corporations, partnerships or LLCs, the business' name is registered with the Nevada Secretary of State. That registration must be submitted with an application for assumed or fictitious name with the Optometry Board, along with a list of **every person who holds an ownership interest** in the entity. Each person who holds an ownership interest must be listed on the certificate issued by the Board, so if the ownership changes, the entity must apply for a new certificate and pay the one-time \$50 fee again. Although the entity typically will complete the certificate registration, it is each licensee's responsibility to ensure that his or her name is on the certificate is the person owns any interest in the entity.

Persons practicing under a DBA (doing business as...)

If you are a lone optometrist named John Doe, but you want to call your practice "John Doe's Bright Eyes," you must register "John Doe's Bright Eyes" as a DBA with the county in which you practice before you can get a business license or open a bank account. The application form in most Nevada counties is only one page long, the cost is minimal and it usually does not expire for 5 years. Once you have a registered dba, you can then apply to the Board to use that business name by filing an application, listing all owners of the dba and submitting a copy of the county approval.

Employees

If you are an **employee** of John Doe, O.D., Inc. or of John Doe's Bright Eyes, who practices under this fictitious name, but you do not own any part of the practice, **you do not need to apply** for a fictitious name certificate. However, separate from the fictitious name regulations, the Board requires every optometrist practicing at a specific location to have his or her name and professional designation displayed near the entrance to the optometry practice.

Helpful Links

NRS 636.215 – Licenses: Execution and contents.

[INSERT LINK IN AB77 to NRS 636.215](#)

NRS 636.350 - Certificate to practice under assumed or fictitious name; regulations.

[SAME HERE](#)

NV SOS website

www.nvsos.gov or nvsilverflume.gov

County Clerk Information for Filing a Fictitious Firm Name or DBA

<https://www.nvsos.gov/sos/businesses/resources/county-clerk-information-for-filing-a-fictitious-firm-name-or-dba-doing-business-as>