

NEVADA STATE BOARD OF OPTOMETRY



CHEN K. YOUNG, O.D.
Board President

MARIAH L. SMITH, O.D.
Board Vice-President

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JEFFREY K. AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

Meeting Materials for

January 21, 2020

Board Meeting

Agenda

NEVADA STATE BOARD OF OPTOMETRY



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AGENDA & NOTICE OF PUBLIC MEETING

The Nevada State Board of Optometry
will hold a **telephonic** meeting
Tuesday, January 21, 2020 at 12 Noon

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

AGENDA

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

***INDICATES ACTION MAY BE TAKEN.**

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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**. Request for reinstatement of expired license, Mario G. Aguerro, Lic. No. 147, expired Dec. 31, 2019.
4. ***For Possible Action**. Consideration and approval of the **minutes** of December 3, 2019 Optometry Board meeting. (Materials provided)
5. ***For Possible Action**. Consideration of regulatory changes in **final R066-19** and input received through public comment. Modification and/or approval of regulatory changes. (Materials provided)

6. ***For Possible Action.** Discussion of Board Policies in light of changed optometry laws, modification and/or approval of same.
7. ***For Possible Action.** Financial Report as of 12/31/2019. (Materials provided.)
8. ***For Possible Action. Executive Director's report**
 - a. Staffing changes and office hours.
 - b. Recent Licensee communications: Newsletter and website.
 - c. Status of office repairs and insurance claim.
9. Announcements and requests for **future Board consideration** (No action to be taken at this meeting). **NEXT BOARD MEETING is scheduled for March 19, 2020 at Noon via teleconference.**
10. **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.
11. ***For Possible Action.** Adjournment.

* * * * *

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

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

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

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

Materials for Agenda Item

No. 3

Mario Agüero, O.D.

Materials for Agenda Item

No. 4

**Minutes of meeting
on Dec. 3, 2019**

NEVADA STATE BOARD OF OPTOMETRY



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MINUTES - DRAFT

Nevada State Board of Optometry Telephonic Meeting Tuesday December 3, 2019 at 12 Noon

- 1. Welcome, Introductions and Public Comment.**
- 2. Call to Order, Roll Call.**

Dr. Young called the meeting to order at 12:02 p.m. and asked for public comment; none was offered.

All Board members attended, with staff: Caren Jenkins, Esq., and Laura Adair, Licensing Specialist. Also in attendance were Sophia Long, Esq. Senior Deputy Attorney General and Board Counsel. Other attendees included Kenneth Kopolow, O.D., Steve Girisgen, O.D. and Chaz Fernandez.

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

Dr. Smith made a motion to approve each of the three sets of draft minutes distributed (10/1/19, 10/11/19, and 11/5/19) as written, and each of the motions was seconded by Dr. Austin. None opposed, motions carried.

Ms. Jenkins noted that the minutes from public workshops of 7/29/19 and 7/30/19 were combined into one document and included with the meeting attachments. She requested Dr. Smith, as the Subcommittee Chair leading those workshops, to affirm that the minutes are representative of the meeting. Dr. Smith approved the workshop minutes which will be included with the

above minutes approved as part of the public record regarding the regulations process.

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

Ms. Jenkins summarized the financial statements for Fiscal Year ending June 2019, which Steele and Associates completed and submitted to the Legislative Counsel for consideration. No anomalies were found in the board's accounting system. Ms. Jenkins worked with the bookkeeper on certain adjusting entries to reflect the correct fiscal year. This is the one year report as required by the Legislative Commission.

Dr. Young asked if a budget analysis has been done to forecast the proposed FY20 increase in board fees. Ms. Jenkins stated that it is impossible to determine how many people may request a mobile optometry license or substitute optometrist certificate, or access other programs, beyond what the board experienced. Ms. Jenkins stated the next budget will be based upon activity of this past year, however the next budget year will be based on our experience in the upcoming renewal cycle and projections can be made on that experience.

Dr. Smith made a motion to approve 2019 audit report by Steele & Assoc., seconded by Dr. Austin. None opposed, motion carried.

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.

Ms. Jenkins referred to the draft of proposed revisions to NAC 636 (meeting materials) provided to the board by the Legislative Counsel Bureau.

The board and staff discussed co-management/business relationships between optometrist and ophthalmologist, fictitious names and substitute optometry. Ms. Jenkins noted that the Legislative Counsel Bureau staff will adjust and move certain sections and wording where they determine is most appropriate.

Dr. Smith confirmed that the additions from the prior meeting are represented in the draft; however, she noted that there was no mention of screening versus comprehensive exams, or assistants being required to be employees of optometrists.

Dr. Smith noted in Section 12 - forming an association or business relationship with a physician, there is concern with assistants who are employees of an optical retail business rather than employees of the optometrist.

Dr. Steve Girisgen commented that the intent of the language in this section was to avoid a situation which is occurring in other states with a corporation rather than optometrists or ophthalmologists employing the assistants.

Ms. Jenkins stated Section 31 refers to the assistant section and states a licensee shall not employ an unlicensed person to perform optometric services, and perhaps this is the appropriate place to clarify that any assistant, in order to provide services listed, must be employed by optometrist and not any unlicensed person.

Dr. Austin suggested this language be simplified to state that the assistant may be employed by an actively practicing ophthalmologist or a licensed ophthalmic medical practice, as an alternative to being employed by an optometrist.

Therefore, Section 3 of AB77 should be reflected in the regulations as:

“An assistant in a non-ophthalmologic environment must be employed by either the optometrist or a licensed ophthalmological medical practice that is actively practicing the art and science of ophthalmology at that location.”

Dr. Girisgen stated he has concerns that an M.D. might call themselves an ophthalmological practice to get around this provision.

Sophia Long, Deputy Attorney General, suggested that from a prosecutorial/legal standpoint the assistant language has its own section of NRS. Ms. Jenkins responded that the board does not have authority over the assistants--only over the optometrists who are their employers. Ms. Jenkins suggested that she and Ms. Long have further discussions on how to present this to the LCB.

Dr. Girisgen asked if wording Section 12 regarding relationship between a retail optical business and an OD should also apply to associations with other businesses.

It was agreed to revise Section 12 wording throughout all sections to state “with a non-licensed person or entity” to include all forms of business relationships or associations and not just physicians.

Dr. Austin suggested a minor revision in Section 13 to language pertaining to billing between optometrist and ophthalmologist to state;

{Optometrist shall not be paid, charge or receive a fixed fee pursuant to NRS 636.374....}

Ms. Jenkins asked if fictitious name owner should also be required to post the fictitious name on the door. Ms. Jenkins reminded the board that in the past one individual alleged that an ophthalmology practice did not distinguish that an optometrist was an independent optometric entity from the ophthalmologist who was providing the services, and that having the name of the OD on the door may have addressed this issue. It was determined by the board that as this was an isolated issue, the optometrists name on the door is sufficient and no additional posting of names is necessary.

Ms. Jenkins suggested that the board offer a “substitute license” certificate to an optometrist who would be available to fill in for OD’s on an extended leave or vacation that would exceed the 28 days in two years fill-in day limit. Also, this could provide opportunities for a retired, new graduate or part-time optometrist. Ms. Jenkins proposed a one-time fee of \$200 every two years, in addition to the license fee, to allow for substitute optometry. Providing a definition for this type of license would differentiate fixed location from a mobile optometry license.

As the board had already agreed to add a substitute license, Ms. Jenkins asked the board to determine the appropriate fee and confirm if it would be allowable for both fixed and multiple locations.

Dr. Austin made a motion, seconded by Dr. Smith, to allow up to 28 fill-in days at any location during a two year license period before requiring a secondary practice location or a substitute license certificate. None opposed, motion carried.

Dr. Smith made a motion, seconded by Mr. Johnson, to accept and move forward with LCB draft with minor language modifications as discussed above in the following sections:

- Screening versus eye exam.
- Assistant as an employee of an optometric or ophthalmological practice.
- Substitute optometry license and fee requirements.
- Co-management and payments between optometrist and ophthalmologist.

6. ***For Possible Action. Executive Director’s Report.**

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

Ms. Jenkins reported on the status of the board office damage due to flooding of the neighboring suite’s water heater. The board has already received the

insurance claim check for personal property replacement. She noted there was only minor water damage to files and office furniture; baseboards and bathroom sheet rock walls have been removed and will be repaired. Since the day after the flood, the office and the property manager have been able to operate at 100%. The insurer of the adjacent veterinary office and the property manager have been obtaining bids on renovation and they have been very cooperative. Ms. Jenkins noted that the board will incur additional expenses to replace carpeting, but this should be covered under insurance.

Ms. Jenkins stated in preparation for license renewals, revisions cannot be implemented until the regulations are granted legislative approval. Ms. Jenkins has asked Deputy Attorney General Asheesh Bhallah to shepherd the process and to ensure regulations are adopted right away and certainly before the license deadline of 2/28/20. Unfortunately, until the regulations are approved, it is impossible for revisions to be made on website and therefore the office will not be able to accept renewals or checks until at least Jan. 1. Ms. Jenkins stated she will be attending an informational meeting by the Legislative Committee on Health Care to review the proposed regulations on 12/11/19 and will be available for any questions that may arise.

Ms. Jenkins confirmed that she had asked for the regulations to be placed on the Legislative Commission's next agenda. That meeting is expected to take place after the 1st of the year; license renewal process cannot begin until that time. Board staff are currently working with the web developer to be ready to implement changes once the regulations are approved. Some modifications such as fact sheets regarding existing programs can be made, however any new programs such as mobile optometry and glaucoma by endorsement cannot be developed before the regulations are approved.

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, video conferenced to Room 3137 Legislative Bldg., 401 S. Carson St. in Carson City.

The next board meeting is scheduled for Noon-2:00 p.m. on Tuesday, January 7, 2020 via teleconference. Next meeting is Thursday March 19, 2020 from Noon-2:00 p.m.

- 8. **Public Comment.** No public comment was offered.
- 9. **Adjournment.** Dr. Smith made a motion to dismiss, seconded by Dr. Austin. Approval was unanimous at 1:20 p.m.

Materials for Agenda Item

No. 5

Approved Regulations R066-19

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NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of
LCB File No. R066-19

The Nevada State Board of Optometry

Tuesday, January 21, 2020 at Noon

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

The following information is provided pursuant to the requirements of NRS 233B.0603: LCB File No. R066-19.

1. What is the need for and purpose of the proposed regulation or amendment?

The regulation is necessary to comply with the provisions of Assembly Bill (AB) 77 of the 2019 Legislative Session. AB77 complies with the Board's statutory duty to ensure the effectiveness of Chapter 636 of the Nevada Revised Statutes ("NRS"), carries out the provisions of NRS 636, and is to conform with and implement revisions as necessitated by the statutory changes to NRS 636 resulting from passage of Assembly Bill 77 in the 80th Session (2019) of the Nevada Legislature (revising and updating nearly the entirety of the chapter to conform to current practices in the profession and the licensing of optometrists in light of the changes in the educational and practical requirements of the profession, and bringing the procedural requirements of the chapter in line with communication and technological advances in the licensure, regulation and practice of optometry in Nevada). Following its enactment, the provisions of Assembly Bill 77 were (will be) codified in NRS 636.

2. What are the terms of substance of the proposed regulation?

The adopted regulation adds to and amends Chapter 636 of the Nevada Administrative Code provisions for the following:

- *Establish the prerequisites, requirements, conditions, and manner of submission by a natural person, of his or her initial application for a certificate by endorsement to treat persons diagnosed with glaucoma where such person: 1) holds a comparable license issued by the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are equal to or substantially similar to the qualifications required for issuance of a license to engage in such activities in the state of Nevada; and (3) satisfies other requirements as directed or authorized by Assembly Bill 77 as adopted by the 2019 Session of the Nevada Legislature.*
 - *Provide for the establishment of a certificate to own a mobile optometry clinic to provide optometric services to certain populations.*
 - *Establishing constraints on certain advertising by optometrists and related entities, and the operation and performance of optometric services in relation to a retail business.*
 - *Updating procedural provisions relating to proceedings before the Board.*
 - *Fixing fees for licensure and certification and for other services provided by the Board, primarily to conform existing fees to a two- year licensing and certification period, establishing fees for three new certificates, and sufficient operating reserves for the agency's functioning at least for the second year of a two-year licensure period.*
 - *Detailing requirements, timing and fees for biennial renewal of optometric licenses and submission of continuing education, and allowing for issuance of new licenses and reduction of fees to be prorated for the remaining licensure period.*
3. What is the estimated economic effect of the regulation on the business which it is to regulate and on the public?

(a) Both adverse and beneficial effects. The Board does not foresee any major adverse effects of the adopted regulation to the business of optometry or to the public, although the transition to new systems may cause short-term disruption of Board operations and potentially delayed renewals.

The Board anticipates that the beneficial effects of the adopted regulation will include cost savings and reduced burdens on those who meet the criteria for treating persons diagnosed with glaucoma or who wish to offer mobile or substitute optometry services as provided in the adopted regulation. Additionally, clarification of the allowable relationships between optometry, ophthalmology and other businesses, the allowable fee arrangements for co-managed patients, the restrictions on shared facilities and service provision, and other aspects of the adopted regulations should help both optometrists, management companies, private equity investors and others understand how to best operate within the regulatory framework, and save time, energy and money in the process. All in all, these regulations should lessen the burden of administrative requirements on optometrists' business activity while maintaining the Board's public protection role.

(b) Both immediate and long-term effects. The Board anticipates both the immediate

and long-term beneficial effects of the adopted regulation will protect the health and welfare of Nevadans without unnecessarily burdening business activity and, in the longer term, should reduce administrative time and cost by regulators and licensees alike.

4. What is the anticipated adverse impact, if any?

a. Optometrists

No adverse impact is anticipated by this regulation.

b. Public

No adverse impact is anticipated by this regulation.

5. Do other regulations address the same problem(s)?

No.

6. Are alternate forms of regulation sufficient to address the problem(s)?

No.

7. What value does the regulation have to the public?

The regulation provides standards of care, training and education qualification for the delivery of optometry, while increasing access through proposed mobile optometry certification to medically underserved areas.

8. What is the anticipated cost of the regulation, both direct and indirect?

The Board estimates that the adopted regulation will result in minimal costs, if any, to the agency for enforcement after the initial costs of implementing the regulations, providing education to licensees and updating the Board's website with forms and fees reflecting the regulation changes. The Board expects that staff costs will be absorbed into the existing workloads of current staff; however, until it experiences a two-year licensing cycle, the actual costs and effects will be unknown.

9. Does the regulation establish a new fee or increase an existing fee?

To the extent that the anticipated 2-year fees may be interpreted as new fees, those fees are nearly the same or lower than those currently imposed for two one-year periods. Any cost savings anticipated from renewing licensure or certificates biennially are reflected in the fees to be imposed.

The fees are to be used to offset the cost of providing information via the Board's website, processing applications, issuing certificates and licenses and regulating licensees, in the same manner imposed upon any other professional licensee in Nevada. License and certification fees fund the entire operation of the Board with no reliance on the State General Fund.

The Board is unable to estimate the annual amount of new application fees that may be collected for the added certifications of mobile optometry, substitute optometry or certification to treat glaucoma by endorsement. These three programs were created by the recent statutory changes and adopted regulations. With regard to the biennial licensure period, several fees

were reduced due to the diminished staff time and costs required once the Board moves to a two-year renewal system.

10. Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

On June 25, August 8, October 1, October 11, November 5 and December 3, 2019, the Board discussed the potential text for the regulation at its regular board meetings. At each of those Board meetings, the public had access to two periods of opportunity for public comment. Additionally, the Board President regularly accepted public comment when a person had a relevant comment during the Board's discussions. Attending and participating in several of the discussions were representatives from the Nevada Optometric Association and the Nevada Academy of Ophthalmology, as well as various licensees. Based upon the discussion, the Board made some changes to the proposed language. No participant in the discussions presented any evidence or argument that the proposed language would have a positive or negative impact on small businesses.

On July 29 and 30, and again on October 1, 2019, the Board noticed and held public workshops to gain input regarding the language that became R06-19. Attending and participating in the workshop were representatives from the Nevada Optometric Association and the Nevada Academy of Ophthalmology, as well as several private optometric practitioners. No participant in the discussion presented any evidence or argument that the proposed language would have a positive or negative impact on small businesses.

Additionally, on September 10, 2019, the Board directed a survey via e-mail to every seventh optometry licensee, alphabetically, of the 504 licensees on file that date. Approximately 8% of those surveyed submitted a response. The Board considered those responses at its next regular meeting and modified the draft regulations to address each concern raised by survey respondents.

11. Provide a description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates, and a statement why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

None of the proposed regulation changes duplicates or is more stringent than any federal, state, or local standards regulating optometry.

12. If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

The regulation is not required pursuant to federal law.

13. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

None of the proposed regulation changes duplicates or is more stringent than any federal, state, or local standards regulating optometry.

Persons wishing to comment upon the proposed action of the Nevada Board of Optometry may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to:

Nevada Board of Optometry
P.O. Box 1824
Carson City, NV 89702
Email: admin@nvoptometry.org

Written submissions must be received by the Nevada Board of Optometry on or before January 14, 2020. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Board of Optometry may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be Adopted will be on file at the State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be Adopted will be available at the Nevada Board of Optometry, 937 Mica Drive #17, Carson City, NV 89702, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to [NRS 233B.0653](#), and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The Board posted this notice at the board office, on the board website (nvoptometry.org), the State of Nevada Public Notices website (<https://notice.nv.gov>), to all persons on the agency's public distribution list for public meetings, and in the following locations:

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

Notice has been either emailed or faxed to each NV County Public Library listed below for posting;

NEVADA COUNTY PUBLIC LIBRARIES

Carson City Library 9000 North Roop Street Carson City, Nevada 89701-3101 Posting@carsoncitylibrary.org	Lincoln County Library 63 Main Street Pioche, Nevada 89043 Fax: (775) 962-5244
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Churchill County Library 553 S. Main Street Fallon, Nevada 89406-3306 dfwargo@churchillcountylibrary.org	Lyon County Library System 20 Nevin Way Yerington, Nevada 89447-2399 Fax: (775) 463-6646
Storey County Treasurer and Clerk's Office Drawer D Virginia City, Nevada 89440 Fax: (775) 847-0921	Mineral County Public Library P.O. Box 1390 Hawthorne, Nevada 89415 Fax: (775) 945-0703
Douglas County Public Library 1625 Library Lane Minden, Nevada 89423-0337 Fax: (775) 782-5754	Pershing County Library 1125 Central Avenue Lovelock, Nevada 89419 Fax: (775) 273-0421
Nevada State Library, Archives, and Public Records 100 North Stewart St., Carson City, NV 89701 Fax: 775-684-3330 jholt@admin.nv.gov	Nevada State Legislature 401 S. Carson St., Carson City, NV 89701 Fax: 775-684-6705 c/o Legislative Police Meghan.egli@lcb.state.nv.us
Washoe County Library 301 South Center St., Reno, NV 89505 Fax: 775-327-8390 library-postinggroup@washoecounty.us	Clark County Library 1401 E. Flamingo Rd., Las Vegas, NV 89119 scotts@lvcclld.org or balsaran@lvcclld.org or okabayashij@lvcclld.org
Elko County Library, Elko pdunn@elkocountynv.net or krkincai@elkocountynv.net	Battle Mountain Branch Library (Lander County) 625 South Broad Street Battle Mountain, Nevada 89820 Fax: (707) 269-1900 or (707) 269-7062
Eureka County Library 10190 Monroe Street Eureka, Nevada 89316	Tonopah Public Library (Nye County) P.O. Box 449 Tonopah, Nevada 89049 Fax: (775) 482-5143
Humboldt County Library 85 East 5 th Street Winnemucca, Nevada 89445-3095 Fax: (775) 623-6438	White Pine County Library 950 Campton Street Ely, Nevada 89301 Fax: (775) 289-3640
Esmeralda County Library Corner of Crook & 4 th Street P.O. Box 430 Goldfield, Nevada 89013-0430	

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

MEETING MATERIALS: Following this page, please either make free copies of the regulation available, post one copy of the entirety of the regulation found at https://nvoptometry.org/wp-content/uploads/2019/12/R_066-19_PREV-FINAL-NOTICE.pdf or provide this link to the public. The public may also request them in advance by email at admin@nvoptometry.org. THANK YOU!

**ADOPTED REGULATION OF THE
NEVADA STATE BOARD OF OPTOMETRY
LCB File No. R066-19**

Effective: January 21, 2020

*if accepted by the Nevada State Board of Optometry at its meeting that
date. Approved by Legislative Commission 12/30/19.*

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 the period in between renewals of the license. (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 ownership of records concerning a patient who receives services from 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 13** also imposes requirements governing billing for services associated with implanting such a premium 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.

Existing regulations authorize an optometrist to practice optometry outside his or her office for not more than 14 working days during a year if the optometrist provides written notice to the Board of the day and place of such practice. (NAC 636.210) **Section 29** of this regulation: (1) limits such practice to in an office that is registered as a practice location for another optometrist; and (2) revises the number of days for which such practice is authorized. **Section 29** also authorizes an optometrist who obtains from the Board a certificate as a substitute optometrist to engage in such practice for an unlimited number of days, provided the substitute optometrist does not practice at the same location for more than 28 working days during the period in between renewals of his or her license.

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 additionally requires the optometrist to maintain a separate reception area, cash drawer, scheduling system, staff, computerized system and physical space from the business of the unlicensed person. **Section 34** also prohibits an optometrist from: (1) using legal representation paid for or arranged by an unlicensed person; 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 with a score of 13 or above by the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 254e.

2. *“Mobile optometry clinic” means an optometrist moving optometric instruments or equipment to a location, other than a building with fixed equipment and instruments maintained for practicing optometry under the conditions described in section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636. The term:*

(a) Includes, without limitation, a vehicle in which an optometrist provides optometric services.

(b) Does not include an optometrist practicing in different buildings which each have fixed equipment and instruments maintained for practicing optometry or providing optometric services under conditions other than those described in section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636.

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 fees 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 are 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 or biennial renewal of a certificate as a substitute optometrist.....\$200
- (d) Initial application for a certificate to treat a person diagnosed with glaucoma, including, without limitation, a certificate by endorsement.....\$175
- (e) Biennial renewal of active license with one practice location\$750
- (f) Biennial renewal of inactive license.....\$500
- (g) Biennial renewal of a certificate to own or operate a mobile optometry clinic.....\$600
- (h) Late fee for reinstatement of license suspended pursuant to NRS 636.275.....\$500
- (i) Activation of inactive license.....\$250
- (j) Addition of a practice location associated with a license.....\$200
- (k) Biennial renewal fee, in addition to the fee prescribed in paragraph (e), for each practice location in addition to the licensee's primary practice location\$200

- (l) Registration of assumed or fictitious name.....\$50*
per practice location
- (m) Change of practice location or change of address.....\$25*
- (n) Letter of good standing.....\$25*
- (o) Replacement license or certificate\$75*
- (p) Replacement renewal card issued pursuant to NRS 636.265\$25*

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. A licensee who is subject to the requirements of NRS 636.2881 may count the continuing education required by that section as part of the 30 hours of continuing education relating to pharmaceutical agents or disease required by subsection 2.

4. 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.

5. 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.

6. 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;

(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. If an optometrist provides services as an employee, the records relating to the patient who receives those services belong to the employer of the optometrist. In all other cases, those records belong to the optometrist.

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:

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

(b) 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:

(1) Clinical decisions;

(2) Scheduling of patients;

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

or

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

Sec. 13. *1. An optometrist shall not charge a patient or receive 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 or receives pursuant to NRS 636.374 for a standard intraocular lens.*

2. An optometrist shall provide written notice to a patient of any fees for tests or procedures performed in connection with the implantation of a multifocal, toric or other premium interocular lens that are not included in the fixed fee described in subsection 1. The written notice must include, without limitation, disclosure of the fair market value of the fees or tests.

3. An optometrist may collect any fees described in subsection 2 by:

(a) Directly billing the patient for those fees; or

(b) Requiring the patient to pay the fees to an ophthalmologist with whom the optometrist collaborates pursuant to NRS 636.374.

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 fees 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 fees 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~~ **that is registered with the Board as a practice location of the licensee. 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 ~~{H}~~ ; 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 ~~{H}~~ ; 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 *last* name and professional ~~identification~~ *designation or the assumed or fictitious name, as applicable,* 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 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) Practice optometry at an office that is not registered with the Board or a mobile optometry clinic that is not certified by 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}~~ *Except as otherwise provided in this subsection, an* optometrist may practice optometry ~~{outside his or her}~~ *as a substitute optometrist 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 as a practice location of the optometrist but is registered with the Board by another licensed optometrist for ~~not~~:

(a) Not more than ~~14~~ 28 working days during the period ~~from March 1 to February 29~~ in between renewals of the license, 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.

(b) More than 28 working days during the period in between renewals of the license, as set forth in NRS 636.250, if he or she obtains from the Board a certificate as a substitute optometrist. An optometrist who wishes to obtain such a certificate must apply to the Board in the form prescribed by the Board. Such a certificate must be renewed before the date by which the license of the optometrist must be renewed pursuant to NRS 636.250. A substitute optometrist shall not practice optometry for more than 28 working days during the period in between renewals of the license, as set forth in NRS 636.250, at any single location that is not registered as a practice location of the optometrist unless the substitute optometrist is practicing as part of a mobile optometry clinic certified pursuant to section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636.

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.

5. For the purposes of this section, practicing at a location for any portion of a day constitutes practicing at that location for one working day.

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 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. *A separate application must be submitted for each location at which the assumed or fictitious name will be used.* The application must ~~{be}~~ :

(a) List each person who holds any ownership interest in the optometry practice and the percentage of the optometry practice that he or she owns; and

(b) 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. *Not later than 10 working days after any percentage of the ownership of an optometry practice for which a fictitious or assumed name is registered changes, the licensee to whom the fictitious or assumed name is registered must submit a new application for the registration of the assumed or fictitious name.*

6. 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 ~~and~~ *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 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 ~~and~~ ; *and*

(b) Maintain a separate reception area, cash drawer, scheduling system, staff, computerized system and physical space from those of the business of the person who is not licensed.

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 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 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*
~~{{(e)}}~~ *(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

Proposed Board Policies, with and without markup

Board Policies

(as of ~~July 1, 2017~~ 2020)

These policies of the Nevada State Board of Optometry were adopted to assist the consistent enforcement of Nevada's statutes and regulations applicable to the practice of optometry and to conduct the Board's authorized functions under the law.

These policies do not replace *the optometry* statutes and regulations (NRS & NAC Chapters 636), and where they conflict, the statutes and regulations shall take precedence.

~~Policy Number 1~~ Correspondence

~~All official correspondence with the Board must be made through the Board's website, to the Executive Director by mail at Post Office Box 1824, Carson City, Nevada 89702, by email to admin@nvoptometry.com or via fax to 775-305-0105.~~

~~Policy Number 12~~ – 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. Fees may apply to any change ~~of an~~ address.

~~Policy Number 3~~ Application Fees

~~The Application for Licensure as an optometrist in the State of Nevada may be downloaded from the Board's website <https://nvoptometry.org>. The applicant must submit the application, all required supporting materials and the fee to the Board. Once the applicant has passed the online law exam, and all required documentation in support of the application has been received in the Board office, the Executive Director will review, reject or approve the application and provide notice to the applicant within 30 days. These policies apply to both new licensees and applicants for licensure by endorsement.~~

~~Upon receipt of notice of approval of his/her application, the applicant must submit the required license printing fee and identify his/her practice location to the Board.~~

~~Within 60 days of receipt of all required information, the licensee will be provided a licensure certificate for display.~~

~~Policy Number 24~~ – Duplication and Copying Document Fees

The Board is authorized by law to charge a reasonable fee for duplication of documents. The Board has approved a charge up to \$0.60 per page for copying, mailing, and duplication of physical documents; *however, t:-*

~~The current charge for copying is \$0.25 per page.~~

Policy Number 35 – License Renewal

Pursuant to NRS 636.250, active and inactive licensees must renew their license by March 1 of each even-numbered year, regardless of the initial license approval date. For renewal by mail to be timely, mail must be postmarked before March 1 by the United States Postal Service. Electronic renewal is effective upon the Board's receipt of all required information and fees. Responsibility for ~~assuring or~~ confirming the Board's receipt of renewal materials rests solely on the renewing licensee.

If a license has not renewed by March 1 of the year of the prescribed date, the license will be suspended. A license may be relieved from suspension if the licensee files a renewal application, submits the required CE documentation before July 1, and pays a penalty of \$250/500.00 as authorized by NRS 636.285, plus the renewal fee. If the license is renewed after June 30 and before January 1, an additional \$250/500.00 penalty will attach to relieve a license from suspension.

As of January/June 294 of after each even-numbered year, every unexpired 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.

Policy Number 6 – License Renewal and Education Requirements

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. (See Policy No. 7 for appropriate CE)

Policy Number 47 – Continuing Education

NRS 636.260[2] requires the license renewal application and renewal fee to be accompanied by satisfactory evidence that the licensee, within the 12/24-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 24/40 hours per 12/24-month period. The Board has established 18/40 qualified CE hours per 24-month period as the renewal requirement for licensees who have been certified in diagnostic pharmaceutical agents, of which up to 5 hours may be related to practice management.

The requirement for licensees who have been certified in therapeutic/optometric pharmaceutical agents are required to complete may not exceed 50/100 hours per 12/24-month period. The Board has established 30/50 hours as the requirement for licensees who are certified in therapeutic/optometric pharmaceutical agents. Continuing Education hours, of which Of the 30/50 hours, not fewer than 15/30 hours must be TPAOPAC-related, and at least 2 of the hours must be related to substance abuse, addition to controlled substances or opioid prescribing, use or misuse. Up to five/10 hours may be related to practice management.

If the licensee is certified to administer and prescribe pharmaceutical agents, and holds a Drug Enforcement Agency number and a Controlled Substances number, and therefore is authorized to prescribe controlled substances listed in Schedules III through V and IV, the 2 hours of continuing education required by NRS 636.2881 may be counted among the 530 hours related to pharmaceutical agents or disease.

Nevada State Board of Optometry Board Policies

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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. *A licensee may not receive credit for more than 10 hours of continuing education during any 24 hour period.*

Any or all of the CE 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 ~~70~~70% 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:

A1. Pre-approved – This category requires the licensee to submit a signed or verified Continuing Education Attendance form or an ARBO summary through which attendance is certified. Other certifications may be submitted. Certification can be by stamp or signature. A list of pre-approved providers may be found below.

PRE-APPROVED PROVIDERS

1A. All schools and colleges of optometry, but not their affiliates. For example, alumni associations are affiliates and are not considered pre-approved providers.

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

2. AOA & U.S. Affiliated Associations:

- ☐ Alabama Optometric Association
- ☐ Alaska Optometric Association
- ☐ Arizona Optometric Association
- ☐ Arkansas Optometric Association

- ☐ Armed Forces Optometric Association
- ☐ California Optometric Association
- ☐ Colorado Optometric Association
- ☐ Connecticut Optometric Association
- ☐ Delaware Optometric Association
- ☐ Optometric Society of the District of Columbia
- ☐ Florida Optometric Association
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- ☐ Iowa Optometric Association
- ☐ Kansas Optometric Association
- ☐ Kentucky Optometric Association
- ☐ Louisiana State Association of Optometrists
- ☐ Maine Optometric Association
- ☐ Maryland Optometric Association
- ☐ Massachusetts Society of Optometrists
- ☐ Michigan Optometric Association
- ☐ Mississippi Optometric Association
- ☐ Missouri Optometric Association
- ☐ Montana Optometric Association
- ☐ Nebraska Optometric Association
- ☐ Nevada State Optometric Association
- ☐ New Hampshire Optometric Association
- ☐ New Jersey Optometric Association
- ☐ New Mexico Optometric Association
- ☐ New York State Optometric Association
- ☐ North Carolina Optometric Association
- ☐ North Dakota Optometric Association
- ☐ Ohio Optometric Association
- ☐ Oklahoma Optometric Association
- ☐ Oregon Optometric Association
- ☐ Pennsylvania Optometric Association
- ☐ Rhode Island Optometric Association
- ☐ South Carolina Optometric Association
- ☐ South Dakota Optometric Society
- ☐ South Dakota State Board of Optometric Examiners
- ☐ Tennessee Optometric Association
- ☐ Texas Optometric Association
- ☐ Utah Optometric Association
- ☐ Vermont Optometric Association
- ☐ Virginia Optometric Association
- ☐ Washington Optometric Association
- ☐ West Virginia Optometric Association
- ☐ Wisconsin Optometric Association
- ☐ Wyoming Optometric Association

3. Regional Councils:

- ☐ Mountain West Council of Optometrists
- ☐ New England Council of Optometrists
- ☐ North Central States Optometric Council
- ☐ Optometric Council of the National Capital Region
- ☐ Southern Council of Optometrists
- ☐ Southern Council of Optometry
- ☐ Great Western Council of Optometry(GWCO)

4. U.S. Government:

- ☐ Veterans Administration
- ☐ Academy of Health Sciences, USA
- ☐ Air National Guard Optometric Society
- ☐ Brooke Army Medical Center
- ☐ Dept. of the Army – Office of the Surgeon General, 18th Med. Command, 2291st U.S.A.H. [Reserve]
- ☐ Ireland Army Community Hosp. Optometry Section
- ☐ Naval Med. Command – SW Region- **OPT067** Hospital

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- ☐ School of Health Care Sci, USAF, Sheppard AFB, TX
- ☐ Department of Biomedical Sciences MSDB
- ☐ Tri Service Optometric Society – Naval Medical Clinic,
- ☐ Barbar's Point Naval Air Station

5. OEPEF:

- ☐ Optometric Extension Program Foundation, Inc.
- ☐ Eastern State Optometric Congress
- ☐ Great Lakes Optometric Congress
- ☐ Heart of American Optometric Congress
- ☐ The Invitational Skeffington Symposium
- ☐ Mid-American Vision Conference
- ☐ Mountain States Congress of Optometry
- ☐ New Jersey Optometric Extension Program
- ☐ Northeast Congress of Optometry
- ☐ Northwest Congress of Optometry
- ☐ Northeast Vision Conference
- ☐ Reading Advanced Behavioral Vision Seminar
- ☐ Rosario Seminar
- ☐ San Jose Vision Therapy Conference
- ☐ Southwest California Behavioral Vision Seminar
- ☐ Southern California Vision Forum
- ☐ Summerville Behavioral Seminars
- ☐ Sun Valley Behavioral Vision Seminar

6. Special:

- ☐ American Academy of Optometry
- ☐ National Eye Research Foundation
- ☐ Northern Rockies Optometric Conference
- ☐ Council on Practitioner Education of the IAB
- ☐ College of Optometry and Vision Development [COVD]

7. Any state ophthalmologic or optometric society.

8. Any regional or national ophthalmologic association.

9. Any medical school affiliated ophthalmology residency program.

10. Any COPE approved course. ~~EXCEPTION: The Board will not accept CE from Queens University or Optocase, regardless of COPE approval.~~

11. Category I CME (Continuing Medical Education) coursework will NOT be accepted generally, but may be submitted for the 2 hours required per renewal period related to *addiction, substance abuse, or* opioid prescribing, use and misuse.

B. 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.

Policy Number 9 – Continuing Education Reporting

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 renewal period. Interim submission of continuing education will not be accepted.

Policy Number 68 – 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 for ~~information regarding~~ accreditation.

Policy Number 79 – Personalized Requests for Letters of Good Standing and Multiple Verifications of License

Any person requesting *an multiple individualized written* verifications of licenses ~~sure~~ may be required to make ~~thesuch~~ requests in writing and pay a fee of \$25.00.

Any person requesting ~~physical copies of~~ disciplinary information concerning a licensee, or physical copies of a file must make the request in writing, and *may be assessed* pay a fee of ~~\$5.00 for any file up to 20 pages, and \$0.25 per page thereafter~~ *for hard copies.*

Policy Number 10-8 – Fictitious Name

[NRS 636.350](#) requires that, prior *to using* ~~practicing under~~ an assumed or fictitious name *for an optometric practice*, the

Nevada State Board of Optometry Board Policies

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~~owner's license~~ must ~~be issued~~ *obtain* a certificate from the Board. The Fictitious Name Application must be submitted by each licensee who holds an ownership interest in the entity operating under the assumed or fictitious name, *for each location where the name is to be used, and* must be approved before commencing its use.

Any licensee practicing at a medical or surgical facility who applies for registration of an assumed name to be used at the facility must include his/her professional designation in the assumed name.

~~Policy Number 11~~ Continuing Education Reporting

~~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 renewal period. Interim submission of continuing education will not be accepted.~~

~~Policy Number 12~~ Operating Expenses

~~The Board shall maintain in an account separate from its general operating account an amount of money that is liquefiable funds estimated to be sufficient to pay the operating expenses of the Board for at least a thirteen (13) months period.~~

Policy Number 103 – Contact with Members of the Board

Licensees should refrain from contacting members appointed to the State Board of Optometry at their homes or offices regarding Board matters and operations, and should instead contact the Executive Director at the Board office. Only when a licensee wishes to shield his or her identity from the staff for good cause, or the issue involves the conduct of the Executive

Director, should a licensee contact a Board member directly.

~~Policy Number 14~~ Hydrocodone with Acetaminophen ~~Pharmaceutical Agents~~

~~An optometrist who is certified to administer and prescribe a pharmaceutical agent shall not prescribe a controlled substance in an amount that does not exceed 90 morphine milligram equivalents per day and will not last more than 72 hours, and may not be refilled without a subsequent patient examination. Optometrists are prohibited from prescribing any narcotic analgesic classified as schedule 2, however prescribing analgesics classified as schedule 3, 4 and 5 for pain management is permitted.~~

~~The presumed maximum prescribed dosage for Hydrocodone with Acetaminophen is not more than 90 MME or Maximum Morphine Equivalents each day for up to 3 days/72 hour period.~~

~~PROPOSED Policy Number 15~~ Mobile Optometry permitted for certain at-risk or underserved populations

~~To help secure the availability of quality vision care services for patients in remote or underserved areas in Nevada and patients who need specialized types of cost-effective health care, a mobile optometric practice, which may include a trailer or vehicle that may be moved from one location to another, may apply for~~

Nevada State Board of Optometry Board Policies

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~~consideration as a certified practice location. A mobile optometric practice must be owned by one or more licensees, a nonprofit or charitable organization, a government agency or a school. Such mobile facilities may be registered as a practice location, so long as the operating licensee completes a mobile optometry certificate application, meets the requirements set by the Board, and submits the application and appropriate fee before offering services in this manner.~~

~~The Executive Director shall review and approve or deny all applications, based on the Board approved criteria posted on the~~

~~Board website. Optometrists who establish or provide optometric services through a certified mobile practice shall be relieved of the requirement to notify the Board of each practice location at which he or she offered optometric services using mobile optometric equipment. Certified mobile optometry practices must apply for renewal of the certification by March 1 of each year even-numbered year.~~

DRAFT

Board Policies

(as of, 2020)

These policies of the Nevada State Board of Optometry were adopted to assist the consistent enforcement of Nevada's statutes and regulations applicable to the practice of optometry and to conduct the Board's authorized functions under the law.

These policies do not replace the optometry statutes and regulations (NRS & NAC Chapters 636), and where they conflict, the statutes and regulations shall take precedence.

Policy Number 1 – 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. Fees may apply to any change of address.

Policy Number 2 – Duplication and Copying Fees

The Board is authorized by law to charge a reasonable fee for duplication of documents. The Board has approved a charge up to \$0.60 per page for copying, mailing, and duplication of physical documents; however, the current charge for copying is \$0.25 per page.

Policy Number 3 – License Renewal

For renewal by mail to be timely, mail must be postmarked before March 1 by the United States Postal Service. Electronic

renewal is effective upon the Board's receipt of all required information and fees. Responsibility for confirming the Board's receipt of renewal materials rests solely on the renewing licensee.

As of June 29 of each even-numbered year, every unexpired license will expire, and if the former licensee wishes to practice in Nevada, he or she must apply as though no previous licensure existed.

Policy Number 4 – Continuing Education

[NRS 636.260\[2\]](#) requires the license renewal application and renewal fee to be accompanied by 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 Board has established 40 qualified CE hours per 24-month period as the renewal requirement for licensees who have been certified in diagnostic pharmaceutical agents, of which up to 5 hours may be related to practice management.

Licensees who have been certified in optometric pharmaceutical agents are required to complete 50 Continuing Education hours, of which not fewer than 30 hours must be OPAC-related, and at least 2 of the hours must be related to substance abuse, addition to controlled substances or opioid prescribing, use or misuse. Up to 10 hours may be related to practice management.

If the licensee is certified to administer and prescribe pharmaceutical agents, and holds a Drug Enforcement Agency number and a Controlled Substances number, and

therefore is authorized to prescribe controlled substances listed in Schedules III through V, the 2 hours of continuing education required by NRS 636.2881 may be counted among the 50 hours related to pharmaceutical agents or disease.

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. A licensee may not receive credit for more than 10 hours of continuing education during any 24 hour period.

Any or all of the CE 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 70% 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:

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

PRE-APPROVED PROVIDERS

1. All schools and colleges of optometry, but not their affiliates. For example, alumni associations are affiliates and are not considered pre-approved providers.

2. AOA & U.S. Affiliated Associations:

- ☐ Alabama Optometric Association

- ☐ Alaska Optometric Association
- ☐ Arizona Optometric Association
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3. Regional Councils:

- ☐ Mountain West Council of Optometrists
- ☐ New England Council of Optometrists
- ☐ North Central States Optometric Council
- ☐ Optometric Council of the National Capital Region
- ☐ Southern Council of Optometrists
- ☐ Southern Council of Optometry
- ☐ Great Western Council of Optometry(GWCO)

4. U.S. Government:

- ☐ Veterans Administration
- ☐ Academy of Health Sciences, USA

- ☐ Air National Guard Optometric Society
- ☐ Brooke Army Medical Center
- ☐ Dept. of the Army – Office of the Surgeon General, 18th Med. Command, 2291st U.S.A.H. [Reserve]
- ☐ Ireland Army Community Hosp. Optometry Section
- ☐ Naval Med. Command – SW Region–Naval Hospital
- ☐ School of Health Care Sci, USAF, Sheppard AFB, TX
- ☐ Department of Biomedical Sciences MSDB
- ☐ Tri Service Optometric Society – Naval Medical Clinic,
- ☐ Barbar's Point Naval Air Station

5. OEPE:

- ☐ Optometric Extension Program Foundation, Inc.
- ☐ Eastern State Optometric Congress
- ☐ Great Lakes Optometric Congress
- ☐ Heart of American Optometric Congress
- ☐ The Invitational Skeffington Symposium
- ☐ Mid-American Vision Conference
- ☐ Mountain States Congress of Optometry
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- ☐ Reading Advanced Behavioral Vision Seminar
- ☐ Rosario Seminar
- ☐ San Jose Vision Therapy Conference
- ☐ Southwest California Behavioral Vision Seminar
- ☐ Southern California Vision Forum
- ☐ Summerville Behavioral Seminars
- ☐ Sun Valley Behavioral Vision Seminar

6. Special:

- ☐ American Academy of Optometry
- ☐ National Eye Research Foundation
- ☐ Northern Rockies Optometric Conference
- ☐ Council on Practitioner Education of the IAB
- ☐ College of Optometry and Vision Development [COVID]

7. Any state ophthalmologic or optometric society.

8. Any regional or national ophthalmologic association.

9. Any medical school affiliated ophthalmology residency program.

10. Any COPE approved course.

11. Category I CME (Continuing Medical Education) coursework will NOT be accepted generally, but may be submitted for the 2 hours required per renewal period related to addiction, substance abuse, or opioid prescribing, use and misuse.

B. 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.

Policy Number 9 – Continuing Education Reporting

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 renewal period. Interim submission of continuing education will not be accepted.

Policy Number 6 – 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 for accreditation.

Policy Number 7 – Personalized Requests for Letters of Good Standing and Verifications of License

Any person requesting an individualized written verification of licensure may be required to make the request in writing and pay a fee of \$25.00.

Any person requesting disciplinary information concerning a licensee, or physical copies of a file must make the request in writing, and may be assessed a fee for hard copies.

Policy Number 8 – Fictitious Name

[NRS 636.350](#) requires that, prior to using

an assumed or fictitious name for an optometric practice, the owners must obtain a certificate from the Board. The Fictitious Name Application must be submitted by each licensee who holds an ownership interest in the entity operating under the assumed or fictitious name, for each location where the name is to be used, and must be approved before commencing its use.

Any licensee practicing at a medical or surgical facility who applies for registration of an assumed name to be used at the facility must include his/her professional designation in the assumed name.

Policy Number 10 – Contact with Members of the Board

Licensees should refrain from contacting members appointed to the State Board of Optometry at their homes or offices regarding Board matters and operations, and should instead contact the Executive Director at the Board office. Only when a licensee wishes to shield his or her identity from the staff for good cause, or the issue involves the conduct of the Executive Director, should a licensee contact a Board member directly.

Materials for Agenda Item

No. 7

Financial Report 12/31/2019

NEVADA STATE BOARD OF OPTOMETRY

		7/19 - 12/19	12 mo	+/- 50%	
		YTD	Total		
6	as of 12/31/19	Actual	Budget*	over Budget	% of Budget
7	Income				
8	Billable Expense Income	0.00	300.00	-300.00	0.00%
9	Endorsement Application	1,125.00	3,000.00	-1,875.00	37.50%
10	Fees- Applications	5,850.00	13,000.00	-7,150.00	45.00%
11	Fees- Cert/Add'l Location/Addr. Changes	8,025.00	60,000.00	-51,975.00	13.38%
12	Fees- License Renewals	575.00	192,500.00	-191,925.00	0.30%
13	Merchant Fee Income	666.16	8,125.00	-7,458.84	8.20%
14	Miscellaneous Income	6,594.48	5,000.00	1,594.48	131.89%
15	Penalties - Discipline	0.00	0.00	0.00	
16	Penalties- Admin	335.60	1,000.00	-664.40	33.56%
17	Unapplied Cash Payment Income	0.00	204,500.00	-204,500.00	0.00%
18	Total Income	\$ 23,171.24	\$ 487,425.00	-\$ 464,253.76	4.75%
19	Gross Profit	\$ 23,171.24	\$ 487,425.00	-\$ 464,253.76	4.75%
20	Expenses				
21	Accounting & Bookkeeping	13,373.20	25,000.00	-11,626.80	53.49%
22	Bank Charges	0.00	100.00	-100.00	0.00%
23	Board Pay, Travel & Per Diem	3,372.94	4,000.00	-627.06	84.32%
24	Computer purchase incl. Software	273.88	1,100.00	-826.12	24.90%
25	Contract Labor	0.00	500.00	-500.00	0.00%
26	Dues & Subscriptions	1,000.00	1,500.00	-500.00	66.67%
27	Insurance- Liability	0.00	850.00	-850.00	0.00%
28	Legal, Lobbying & Professional Fees	2,151.74	6,000.00	-3,848.26	35.86%
29	Office Equipment	0.00	500.00	-500.00	0.00%
30	Office Expense	1,400.12	2,000.00	-599.88	70.01%
31	Other General and Admin Expenses	0.00	1,000.00	-1,000.00	0.00%
32	Other Miscellaneous Service Cost	49.00	0.00	49.00	
33	Payroll Expenses	0.00	11,000.00	-11,000.00	0.00%
34	Company Contributions	0.00	0.00	0.00	
35	Retirement	7,797.38	0.00	7,797.38	
36	Total Company Contributions	\$ 7,797.38	\$ 0.00	\$ 7,797.38	
37	Insurance- Workers Comp	500.00	100.00	400.00	500.00%
38	Payroll Taxes	0.00	3,000.00	-3,000.00	0.00%
39	Payroll- Health Ins, Medicare & PERS	19,038.30	33,000.00	-13,961.70	57.69%
40	Retirement	232.00	0.00	232.00	
41	Wages	72,352.67	120,000.00	-47,647.33	60.29%
42	Total Payroll Expenses	\$ 99,920.35	\$ 167,100.00	-\$ 67,179.65	59.80%
43	Postage and delivery costs	307.94	1,250.00	-942.06	24.64%
44	Printing & Copying (incl leased copier)	79.91	350.00	-270.09	22.83%
45	QuickBooks Payments Fees	1,596.55	8,000.00	-6,403.45	19.96%
46	Rent or Lease	6,799.64	13,500.00	-6,700.36	50.37%
47	Travel- in State (Staff & Board)	694.03	5,000.00	-4,305.97	13.88%
48	Unapplied Cash Bill Payment Expense	9,500.00	0.00	9,500.00	
49	Utilities- Phone, Internet, Gas & Electric	3,139.33	5,500.00	-2,360.67	57.08%
50	Website development & upkeep	1,166.04	5,000.00	-3,833.96	23.32%
51	Total Expenses	\$ 144,824.67	\$ 248,250.00	-\$ 103,425.33	58.34%
52	Net Operating Income	-\$ 121,653.43	\$ 239,175.00	-\$ 360,828.43	-50.86%
53	Other Income				
54	Interest Earned	579.31	1,250.00	-670.69	46.34%
55	Total Other Income	\$ 579.31	\$ 1,250.00	-\$ 670.69	46.34%
56	Net Other Income	\$ 579.31	\$ 1,250.00	-\$ 670.69	46.34%

29.19 average %

*Note: Budgeting conducted for 1 fiscal year, as statutes and regulations had not yet been adopted. The Board will need to revise its current budget in light of the changes in licensing to a 2-year period.

6-MONTH YTD - FINANCIAL REPORT 7/1/19 through 12/31/2019

		7/19	8/19	9/19	10/19	11/19	12/19
6		Actual	Actual	Actual	Actual	Actual	Actual
7	Income						
8	Billable Expense Income						
9	Endorsement Application						
10	Fees- Applications		225.00	225.00	450.00		225.00
11	Fees- Cert/Add'l Location/Addr. Ch	1,400.00	1,250.00	1,025.00	2,100.00		75.00
12	Fees- License Renewals	1,775.00	1,150.00	2,250.00	1,475.00	1,000.00	375.00
13	Merchant Fee Income			375.00		-50.00	250.00
14	Miscellaneous Income	114.71	161.91	133.04	152.30	35.00	25.70
15	Penalties - Discipline			500.00	100.00	5,459.48	532.00
16	Penalties- Admin		0.00				
17	Unapplied Cash Payment Income				-164.40		
18	Total Income	\$ 3,289.71	\$ 2,786.91	\$ 4,508.04	\$ 4,112.90	\$ 6,444.48	\$ 1,482.70
19	Gross Profit	\$ 3,289.71	\$ 2,786.91	\$ 4,508.04	\$ 4,112.90	\$ 6,444.48	\$ 1,482.70
20	Expenses						
21	Accounting & Bookkeeping						
22	Bank Charges		1,639.10	560.00	868.00	568.10	9,738.00
23	Board Pay, Travel & Per Diem	1,076.77	600.00		600.00	600.00	196.17
24	Computer purchase incl. Software	43.98	43.98	43.98	43.98	43.98	43.98
25	Contract Labor						
26	Dues & Subscriptions						
27	Insurance- Liability						1,000.00
28	Legal, Lobbying & Professional Fe	964.75		492.37		694.62	
29	Office Equipment						
30	Office Expense	86.45	78.52	272.68		116.59	845.88
31	Other General and Admin Expense						
32	Other Miscellaneous Service Cost	7.00	10.50	7.00	7.00	7.00	7.00
33	Payroll Expenses						
34	Company Contributions						
35	Retirement	2,171.44		2,815.20			2,810.74
36	Total Company Contributions	\$ 2,171.44	\$ 0.00	\$ 2,815.20	\$ 0.00	\$ 0.00	\$ 2,810.74
37	Insurance- Workers Comp	500.00					
38	Payroll Taxes						
39	Payroll- Health Ins, Medicare &	2,197.02	4,699.59	2,146.62	4,960.07	4,840.09	194.91
40	Retirement	232.00					
41	Wages	9,871.54	12,495.54	11,026.46	11,131.18	11,131.18	11,131.18
42	Total Payroll Expenses	\$ 14,972.00	\$ 17,195.13	\$ 15,988.28	\$ 16,091.25	\$ 15,971.27	\$ 14,136.83
43	Postage and delivery costs	17.99	17.99	117.99	17.99	117.99	17.99
44	Printing & Copying (incl leased c	49.97	14.97		14.97		
45	QuickBooks Payments Fees	251.80	199.04	133.39	181.08	47.25	109.69
46	Rent or Lease	1,115.09	1,136.91	1,136.91	1,136.91	1,136.91	1,136.91
47	Travel- in State (Staff & Board)	694.03					
48	Unapplied Cash Bill Payment Ex	9,500.00					
49	Utilities- Phone, Internet, Gas & E	616.22	481.81	486.25	465.27	492.68	515.64
50	Website development & upkeep	165.00	165.00	165.00	165.00	165.00	166.04
51	Total Expenses	\$ 29,561.05	\$ 21,582.95	\$ 19,403.85	\$ 19,591.45	\$ 19,961.39	\$ 27,914.13
52	Net Operating Income	-\$ 26,271.34	-\$ 18,796.04	-\$ 14,895.81	-\$ 15,478.55	-\$ 13,516.91	-\$ 26,431.43
53	Other Income						
54	Interest Earned	142.94	128.94	111.07	108.58	87.78	
55	Total Other Income	\$ 142.94	\$ 128.94	\$ 111.07	\$ 108.58	\$ 87.78	\$ 0.00
56	Net Other Income	\$ 142.94	\$ 128.94	\$ 111.07	\$ 108.58	\$ 87.78	\$ 0.00
57	Net Income	-\$ 26,128.40	-\$ 18,667.10	-\$ 14,784.74	-\$ 15,369.97	-\$ 13,429.13	-\$ 26,431.43

Materials for Agenda Item No. 8

Board Newsletter



NEVADA STATE BOARD OF OPTOMETRY NEWSLETTER

VOLUME 2019-2020, ISSUE 2, JANUARY 10, 2020

BE SURE YOUR CE COUNTS!

ANY COPE-APPROVED CE, whether live or online, may be applied toward your Nevada requirements. If you received a TPA or OPAC in the current license year, your 40-hour preceptorship can be applied as your full CE requirement this licensing period.

OPAC (TPA) holders need 2 opioid CE to renew.



CONGRATULATIONS!

With the work of dozens of optometrists led by various members of the Board, [AB 77](#) of the 2019 Legislative Session and [R066-19](#) are now law. Read the [enrolled bill](#) or the [approved regulations](#) here.

SMELL A CHANGE IN THE AIR? STOP! OPERATE WITH KNOWLEDGE.

1. LICENSE RENEWAL IS NOW ACTIVE ONLINE! Other forms may or may not be active, but they should all work very soon.
2. When you renew your license (by 11:59 p.m. on February 29, 2020), you must provide evidence of having completed **18 COPE-approved or otherwise qualified CE hours** (if you hold no certificate for pharmaceutical prescribing) **or 30** (if you are pharmaceutical agent certified) **qualified CE hours**. Review the [Board Policies](#) for other pre-approved courses. In 2022, your renewal will require you to report 2-years of CE. **But not this year!**
3. License renewal fees now cover a 2-year renewal period, and are virtually doubled. **A 2-year license renewal costs \$750**, plus \$200 for each location in addition to your primary practice location.
4. Your certificate to prescribe pharmaceutical agents (formerly a TPA) is now called an **OPAC - Optometric Pharmaceutical Agent Certificate** - to emphasize that optometrists are authorized to prescribe pharmaceuticals in Schedules III. through V. for ophthalmic treatment only.

OPT079

(continued on next page)

Due to enormity of changes recently made to optometry laws and regulations, and the confusion surrounding the changes, the Board has granted a **REGULATORY REPRIEVE** to all licensees for violations of all new optometry laws related to the signage, naming, organization or control of optometry practices. The Board is likely to lift the reprieve soon, so NOW is a good time to make sure you and your practice operations are compliant. Carefully consider your operations in relation to Ch 636 of NRS and NAC. Consult your legal and financial advisors for a review of your arrangements in light of the changes. Pledge to put your house in order in the next 3 months.

LICENSE RENEWAL IS NOW OPEN AT
<https://nvoptometry.org>

THE 40 + CLUB

Members of the 40+ Club each have served more than 40 years of active optometry practice in Nevada. Only 21 active practitioners can claim to be in the Club - earning their Nevada licenses in 1980 or before. Two such optometrists have been licensed since 1967 - that's 53 years!

Please congratulate these continuously active optometrists, and thank them for serving our communities.

THE 40 + CLUB

(continued from front page)

5. If you hold an OPAC, check the Nevada Prescription Monitoring Program every 6 months at <http://bop.nv.gov/links/PMP/> to be certain your records in that database are accurate.
6. AB 77 of the 2019 Legislation Session and the revised optometry regulations include new laws that affect: mobile optometry, "substitute" optometrists, schedule II prescribing, use of assistants, license renewal every 2 years, glaucoma cert. by endorsement, co-management billing clarity, using fictitious names, entity ownership, management services contracts, subleasing space from non-optometrists and much more!
7. Location cards will now be provided electronically to all licensees. If a licensee wishes to have a physical location card, the Board will charge \$25 per card.



THE 40 + CLUB

Ettore	A	Angelini
Janet	L	Carter
Robert	A	Colon
Grant	D	Cox
Thomas	J	Gibbons
Craig	R	Hamilton
William	F	Harvey
Denis	M	Humphreys
James	L	Keller
Thomas	R	Kroll
Karl	M	Larsen
Victoria	M	Lupei
Roger		Mateossian
Richard	F	Meier
Harvey		Ohriner
Stuart	E	Richardson
David	P	Smith
James	A	Soumbeniotis
Donald	D	Staten
John	H	Staub
John	H	Sutton

2020 - vision year!

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**Email us your ideas,
suggestions and feedback,
attend and participate in
meetings and brainstorming
sessions, and become
involved in the licensing
process.**

YOU can affect future MEDICAID reimbursement rates. Your responses may require a bit of work, but, as my mother often said, if you won't offer your input now, don't expect to complain about the outcome later!

Click [HERE](#) for the survey.

UNSUNG HEROES

Many many people worked over the past year or more to bring our statutes and regulations up-to-date. Some gave weeks, others gave hours, and others mere minutes, but all gave their best. The Board applauds your efforts and thanks each of you for your help with this project.



If you have A NEW EMAIL ADDRESS or other personal changes, you must update your contact information right away. The Board is authorized to communicate with licensees *exclusively* via email, so please keep your record up-to-date, or risk missing important communications. Thank you.

We're all in this together.

www.nvoptometry.org

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