NEVADA STATE BOARD OF OPTOMETRY

ADDITIONAL MEETING MATERIALS FOR OCTOBER 13, 2020

October 12, 2020

Dear Board Members:

Please consider this letter as a supplement to Agenda Item No. 5 at the October 13, 3030 Board Meeting. I fashioned Dr. Greg E. Evans' query as a request for declaratory order (No. 20-17) regarding how Dr. Evans might be licensed to provide services for his contracted employer within the State of Nevada. Because he has no "primary practice location" he is at a loss to conform to the typical license location requirement, but his services are not 100% in sync with the mobile optometry framework either. The question before the Board is: **How should Dr. Evans be licensed?**

And, for your information, a license to practice optometry in Nevada requires a 2-year fee of $750. If a licensee operates a mobile optometry clinic, an additional fee of $600 per renewal period is required. Every mobile optometry clinic must report the locations at which optometric services are provided to the Board on a quarterly basis.

Dr. Evans holds Nevada License No. 1050, issued on March 30, 2020, and practiced optometry in 4 other western states, starting in 1982, before seeking a Nevada license. His current contracts to provide optometric assessments and evaluation services are with QTCM and Veterans Evaluation Services, which are contractors of the Veteran Benefits Administration, a federal government agency. His role is to provide an independent assessment of a claimant's condition by reviewing the relevant medical records and examining the patient to confirm or dispute the claim and the diagnosis. He has not yet been asked to assess a Nevada claim, and hopes to remain compliant with Nevada's optometry laws when he is asked to serve a Nevada claimant.

Because the claimants are veterans, he sometimes conducts his work at a V.A. facility or other government office which has fixed optometric equipment near the claimant's residence. In many cases, however, the assessments are completed in locations other than in fixed optometry offices. Dr. Evans brings all equipment needed to conduct his assessment with him for each appointment. No evidence has been offered that the claimants have transportation limitations or other physical impairments that would prevent their appearance at an established optometry office. However, most of the claimants that he evaluates reside in remote areas where the V.A. has no facility or qualified provider available.

The mobile optometry statutes state:

NRS 636.2899 Eligibility; application; issuance; renewal; authorized equipment and services; regulations.

1. Notwithstanding any provision of this chapter to the contrary, a licensee, nonprofit or charitable organization, governmental agency or school in this State who obtains a certificate pursuant to this section may own or operate a mobile optometry clinic pursuant to this section.

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

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

(a) Governmental agencies;

(b) Patients with impaired or restricted mobility;

(c) Members of low-income and other medically underserved groups in the State; and
(d) Academic programs.

The mobile optometry regulations state:
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.

This request for declaratory order will appear on the agenda for the October 13, 2020 meeting. I hope this correspondence will assist your analysis and determination of how Dr. Evans should be licensed.

Caren C. Jenkins, Esq.
Executive Director

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

Caren Jenkins

From: Caren Jenkins
Sent: Monday, October 12, 2020 4:31 PM
To: Admin (admin@nvoptometry.org)
Cc: Asheesh S. Bhalla
Subject: Updates to your meeting materials
Attachments: Greg Evans explanation.docx

Expires: Saturday, April 10, 2021 12:00 AM

UPDATED MEETING MATERIALS!

- **Agenda Item No. 3, Minutes from the June 16, 2020 Board Meeting**. Houston, We have a problem. There was no recording of our June 16, 2020 (improperly included on your agenda as June 19, 2020) Board meeting, and we have sparse notes. Nancy and I will cobble our memories together and offer a draft to be discussed at tomorrow's meeting, but ask that you review it carefully, and make suggestions to fill in any gaps from your own notes, if you have them. Technology is only as good as the operator, and I blew it. Many apologies. You will have a draft sometime this evening for your consideration.

- The attached WORD document titled "**Greg Evans explanation**" is to assist with **Request for Decl. Order - Agenda Item No. 5**

- The statute below is to be discussed under **Executive Director's Report, Agenda Item No.7**

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

1. Commission by the licensee of a felony relating to the practice of optometry or a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.
2. Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.
3. An alcohol or other substance use disorder.
4. Gross incompetency.
5. Affliction with any mental or physical disorder or disturbance seriously impairing his or her competency as an optometrist.
6. Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.
7. Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.
8. Perpetration of unethical or unprofessional conduct in the practice of optometry.
9. Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.
10. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or
(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

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

11. Failure to comply with the provisions of NRS 453.163, 453.164, 453.226, 639.23507, 639.23535 and 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.
12. Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule III or IV.
13. Any violation of a state or federal law or regulation relating to or involving the practice of optometry, including, without limitation, a violation relating to:

(a) The organizational structure or control of any optometric practice or entity;
(b) The maintenance, availability or distribution of any medical record of a patient;
(c) The improper disclosure of any protected information of a patient; and

(d) Fraud.

[67:208:1955] — (NRS A 1971, 2038; 1985, 155; 1987, 1564; 1993, 790, 2871; 2003, 2711; 2009, 890; 2011, 263, 854; 2015, 123, 1176; 2017, 4429; 2019, 2207, 3647, 3892)

Caren C. Jenkins, Esq.
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Nevada State Board of Optometry
P.O. Box 1824
Carson City NV 89702
775-883-8367 - office
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