

NEVADA STATE BOARD OF OPTOMETRY



NOTICE OF PUBLIC MEETING

The Nevada State Board of Optometry will hold a Board meeting **via Zoom** on
Thursday, September 8, 2022, beginning at 12:00 Noon PST

Click here to join the meeting:

<https://us06web.zoom.us/j/87415091323?pwd=V1IMMWJOMGIHSFRMbVAVYTgrbnhWUT09>

Meeting ID: 874 1509 1323

Passcode: 525968

Dial by your location

+1 669 444 9171 US(Pacific States)

+1 301 715 8592 US (Washington DC)

The public is invited to attend.

AGENDA

NOTE: Items on this agenda may be taken out of order.

1. **Call to Order**, Roll Call, welcome, introductions.
2. **Public Comment**. No action will be taken at this meeting on any issues presented in Public Comment.
3. ***For Possible Action**. Consideration and approval of the proposed **minutes** of the July 21, 2022, Board meeting. (materials)
4. ***For Possible Action**. *THIS AGENDA ITEM MAY BE TAKEN OUT OF ORDER AND WILL BE CALLED AT 12:15 PM.* Presentation of proposed stipulated settlement imposing discipline to resolve Complaint No. 22-09 regarding the actions of **NIDHA NATHANI, O.D.**, Lic. No. 1118, represented by Lyn E. Beggs, Esq.; Consideration and discussion of possible Board acceptance, modification or rejection of all or part of the proposed resolution. (materials)

Agenda continues on next page . . .

5. ***For Possible Action.** Executive Director's Reports and requests for direction.
- A. *Continued consideration of complaints presented to licensees with identified deficiencies at 2022 renewal. Acceptance or rejection of stipulations with licensees who agreed to remedy the deficiency immediately and pay a fine as authorized by the Board. (materials)
 - B. *Discussion and staff direction regarding verifying applicants' status if licensed in other jurisdictions. Possible addition to Board Policies outlining permitted resources for this information. (materials)
 - C. *Presentation, discussion and possible adoption of procedure guide for processing complaints. (materials)
 - D. Other reports/information.
6. ***For Possible Action.** Update on Bill Sponsor and intended 2023 Optometry BDR. Additional topic for Legislative BDR. Add "citation authority" to Board statutes. (materials)
7. **Public Comment.** No action will be taken at this meeting on any issue presented in Public Comment.
8. ***For Possible Action.** Adjournment.

* * * * *

FY 2022-2023 remaining Regular meeting schedule

Thurs. October 13 – Reg. Bd. meeting – Noon – phone or Zoom
Thurs. December 8 – Reg. Bd. meeting – Noon – phone or Zoom
Thurs. February 23 – 8:30 am **ALL DAY** Bd. Meeting in Las Vegas or by Zoom
Thurs. April 20 – Reg. Bd. meeting – Noon – phone or Zoom
Thurs. June 22 – 8:30 am **ALL DAY** in Reno or by Zoom

* * * * *

❖ The Board is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada State Board of Optometry: in writing at P.O. Box 1824, Carson City, Nevada 89702; via email at admin@nvoptometry.org; or call 775-883-8367 as far in advance as possible.

❖ To request an advance copy of the supporting materials for this meeting, contact admin@nvoptometry.org or call 775-883-8367.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020, before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada State Board of Optometry office, Carson City, NV 89705
- Nevada State Board of Optometry website: <https://nvoptometry.org/>
- Nevada Public Notice website: <http://notice.nv.gov>

AGENDA ITEM NO. 3 – Draft Minutes of July 21, 2022, Board Meeting

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

July 21, 2022

1. **Roll Call, Call to Order, welcome, introductions.** President Mariah Smith, O.D. opened the Zoom meeting at 9:05 a.m. and asked for public comment. President Mariah Smith, O.D., Vice President Jeff Austin, O.D., Stephanie Lee, O.D., and Drew Johnson were all in attendance. Also present were Executive Director Caren C. Jenkins, Board Counsel Asheesh Bhalla, Esq., and Licensing Specialist, Nancy Padilla. Public attendees included Spencer Quinton, O.D., Executive Director Terri Ogden of the Nevada Optometric Association, and Steve Girisgen, O.D.
2. **Public Comment.** No public comments were offered.
3. **Election of Board President, Vice-President and Financial Officer for FY 2022-23.** President Mariah Smith, O.D. moved to elect Drew Johnson as the Board Financial Officer, Drew Johnson accepted the nomination. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously. Mariah Smith, O.D. moved to elect Jeff Austin, O.D. as the Board Vice-President, and Jeff Austin, O.D. accepted the nomination. Stephanie Lee, O.D. seconded the motion. Motion carried unanimously. Jeff Austin, O.D. moved to elect Mariah Smith, O.D. as Board President. Mariah Smith, O.D. accepted the nomination. Drew Johnson seconded the motion. Motion carried unanimously.
4. **Consideration and approval of the proposed minutes of the March 24, 2022 (including its continuation on April 4, 2022) and May 19, 2022, Board meetings, as well as the June 21, 2022, meeting lacking a quorum followed by the Legislative Stakeholders' Meeting.** Drew Johnson made a motion to accept the minutes from both March 24, 2022, and May 19, 2022. President Mariah Smith, O.D. seconded the motion. The motion carried unanimously. President Mariah Smith, O.D. made a motion to accept the June 21, 2022, stakeholder meeting minutes. Vice-President Jeff Austin, O.D. seconded the motion. Motion carried unanimously. No minutes were presented for the June 21 scheduled meeting. Due to lack of a quorum, no meeting was held.
5. **ARBO Report.** Dr. Stephanie Lee will present relevant information gained from her attendance at the 2022 virtual ARBO meeting.
 - A. Stephanie Lee, O.D. reported whether an OPAC certified optometrist may

prescribe medicated contact lenses. She indicated that we may need to review our law.

- B. CELMO update: Dr. Lee reported that some states are changing their reciprocity laws to allow applicants in CELMO to be licensed in a way to move towards universal licensure requirements.
- C. PEPS update: Dr. Lee reported that NBEO is restructuring the Part III Clinical Skills Exam into the new Patient Encounters and Performance Skills (PEPS) Exam to address an evolving scope of practice and to incorporate important clinical thinking and decision-making. Dr. Lee indicated that the August 2023 completion date has been delayed.
- D. Telehealth: Dr. Lee reported that laws vary from state to state and gave examples of Texas and Wyoming's laws.
- E. Review and adjust the questions on our applications for licensure: Dr. Lee suggested that we review the last 2 sections of the application for licensure and adjust where needed to comply with federal requirements.
- F. Background checks on our licensees and applicants: Dr. Lee reported that we may need to change our statutes to authorize the Board to perform background checks and to review an applicant's social media for good moral character.

President Mariah Smith, O.D. recommended that we budget for an annual participant at the yearly ARBO meetings.

President Mariah Smith, O.D. made a motion to add Statutory authority to perform background checks on our applicants to our current legislative package. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.

6. Discussion of Board Resources and "Best Practices."

- Create a policy to direct the processing of complaints - utilize the Office of the Attorney General to evaluate and determine next steps, including prosecution or dismissal, for any Complaints over which the Executive Director has determined that the Board has jurisdiction and for which an investigation is complete.

President Mariah Smith, O.D. proposed that, going forward, the Attorney General's will lead the Board hearings and the Executive Director will present evidence and information regarding the investigations. This change will increase the budget item for our Attorney General office resources. Executive Director Caren C. Jenkins estimated an increase of \$10,000.00 or more additional attorney's fees annually.

Executive Director Jenkins gave an overview of the Complaint process. The first step is the Executive Director's jurisdictional review, the next step is an investigation to determine if there is a preponderance of the evidence that we could bring forward in a hearing that could result in a finding of a violation. If there is not a 51% likelihood that the prosecution will prevail then the matter is not pursued. Ms. Jenkins proposed that once the investigation is completed and it has been determined that there is sufficient evidence, the file would be turned over to the Attorney General's (A.G.'s) office for an evaluation of the sufficiency of evidence and decide whether we would go forward to hearing or dismiss the matter. Ms. Jenkins suggested that having the A.G.'s office review everything that is investigated is unnecessary. Jeff Austin, O.D. agreed to only send those files to the A.G.'s office where the E.D. has determined that there is sufficient evidence that could result in a finding of violation.

Stephanie Lee, O.D. also agreed that this proposal would be more time efficient and cost effective. Drew Johnson asked if the executive director position was held by someone without a legal background, how would the process differ? Ms. Jenkins suggested that the investigator role could be completed by a non-lawyer E.D. or farmed out to a contractor. President Mariah Smith, O.D. recommended that all Complaints filed against Board members should go directly to the A.G.'s office for evaluation and investigation to avoid any bias and asked if other Boards follow the same guidelines. Board Counsel Asheesh Bhalla, Esq. said that he also agrees with the proposal provided by the Executive Director, and in the case of a Board member Complaint the A.G.'s office would assign another Deputy Attorney General (other than Asheesh Bhalla, Esq.) to investigate and review. Ms. Jenkins will add a section to the procedure manual about processing Complaints when received, and at what point should staff hand them over to the A.G.'s office.

- **Develop checks and balances for Executive Director's discretion to dismiss complaints for jurisdiction or insufficient evidence**

Executive Director Caren C. Jenkins suggested that she send copies of all Complaints to a Board member for review. Board Council Asheesh Bhalla, Esq. suggested that process may cause disqualification during a hearing. However, he suggests a Compliance Report where the types and number of dismissed cases are presented at each meeting. This avoids a Board member having a conflict of interest or being recused for being a part of the investigation in a case that results in a hearing. If the A.G.'s office proceeds to a formal Complaint the Board counsel would act as the prosecutor and another attorney from the A.G.'s office would act as Board counsel during those hearings. Executive Director Jenkins indicated that the Compliance report would exclude names and include only general allegations and complaints. Stephanie Lee, O.D. asked if practitioners are made aware of Complaints against them. E.D. Jenkins indicated that licensees are notified only about those that involve investigation. Drew Johnson agreed with the Compliance Report suggestion and that it resolves the problem of a Board member recusal.

- **Implement a more effective system to create, distribute and maintain agendas, meeting dates, meeting materials, etc.**

Executive Director Caren C. Jenkins indicated that moving forward we would do our best to distribute the agenda and meeting materials one week before the Board meeting, and supplement as needed or delete agenda items that cannot be addressed.

7. Executive Director's Reports and requests for direction.

A. Current Optometry Licensee Census:

Executive Director Caren C. Jenkins indicated that we must report our yearly census to our new software vendor (Thentia for Government) in March, because we are charged based on how many records we have in the database. Director Jenkins reported that we have 555 total licensees, with 782 locations. Of those reported, 512 have an Active status (meaning they are currently able to practice), and 42 are Inactive status.

B. Review of application forms and OSLE questions - opportunity for changes:

Executive Director Caren C. Jenkins reported that all applications will be reviewed and updated as we transition to the new software system. Additionally, the On-line State Law Exam (OSLE) questions will be reviewed for relevance. Jeff Austin, O.D. and Stephanie Lee,

O.D. volunteered to help with formulating new questions. President Mariah Smith asked if we should consider reducing the number of questions.

- C. Licensing Loophole: Do not renew, but allow license to lapse, then submit a new application avoiding requirement for CE reporting, escaping late penalty related to renewal, and obtaining half-price license fee incentive for endorsement candidates. Savings to clever optometrists: cost of CE courses, \$500 late fee and \$375 licensure for 2 years = \$875.**

Executive director Caren C. Jenkins recommended that we close the Endorsement application (Endorsement concept was introduced in 2017 with Senate Bill 69) loophole by changing the rule so that Endorsement is unavailable if your last 5 continuous years of licensure were in Nevada. Caren C. Jenkins suggested changing the rule to require 5 continuous years in another jurisdiction with Active status and no discipline. Vice President Jeff Austin, O.D. suggested that we also add a continuing education requirement for Endorsement applications.

- D. Request to open reserves account at Chase Bank due to expected merger of CNB and NSB, and to transfer current reserves account to Chase due to an existing reserves account at NSB.**

Executive Director Caren C. Jenkins requested the authority to open a new account at Chase Bank for our operating reserves to insure the Board account is below the FDIC protected amount once City National Bank and Nevada State Bank merge. Stephanie Lee, O.D. made a motion to open an account at Chase Bank for our operating reserves and to authorize Executive Director Caren C. Jenkins to complete and sign related paperwork. President Mariah Smith, O.D. seconded the motion. Motion passed unanimously.

- E. Update re: Thentia Cloud for Government – licensing and information systems, processing and database development.**

Executive Director Caren C. Jenkins reported that there was a delay in the project, and we were put on hold for several weeks. Director Jenkins complained and then we were assigned a new project manager and additional resources. She expects a soft go-live in October or November, with public operations active by December 2022.

- 8. Possible acceptance of stipulation by licensees with deficiencies identified during 2022 renewal who agreed to late fees as authorized by the Board.** Executive Director Caren C. Jenkins recommended that the Board accept the stipulations with respondents who have signed the acknowledgements and have provided the administrative penalties. Everyone on the list except for three have acknowledged their deficiencies and paid the administrative penalty. For the record they are: Leslyn Catlett, O.D., Troy Chang, O.D., Lawrence Cruz, O.D., Vanessa Kim, O.D., Shana Korman, O.D., Brian Shih, O.D., Lisa Cady, O.D., Jessica Celestino, O.D., Fanny Chan, O.D., Lesa Davis, O.D., Ryan Dimit, O.D., Jacqueline Donahue, O.D., Aaron Hemmer, O.D., Melanie Hemmer, O.D., Gabriel Hernandez, O.D., Robert Hillstead, O.D., Karen Hsueh, O.D., Kyle Langr, O.D., Julianee Lee, O.D., Timothy Moore, O.D., Brian Nasser, O.D., Daniel Nguyen, O.D., Jeanine O’Saurus, O.D., Laura Patterson, O.D., Lilian So, O.D., Cory Steed, O.D., Dong Suk, O.D., and Jenny Tran, O.D. President Mariah Smith, O.D. made a motion to accept the stipulated resolutions. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.

10. Request for Letter applying of Scope of Optometry to requirements of Athletic Commission and Boxing Commission for examination of participants in Combative Sports, requested by Eric Brooker, O.D. This item was taken out of order. Vice President Jeff Austin, O.D. recommended that the Board send a letter to the Athletic Commission and Boxing Commission, indicating that the scope of optometry is within the examination requirements for participants in combative sports and would they consider changing the policy that requires an ophthalmologist to perform the eye exam. President Mariah Smith, O.D. made a motion to send a letter to the Athletic Commission and Boxing Commission. Vice President Jeff Austin, O.D. seconded the motion. Motion carried unanimously.

11. Final Consideration and approval of legislative proposals:

- A. Staff required to search the PMP to identify inappropriate prescribing by O.D.s biennially. Vice President Jeff Austin, O.D. made a motion that we request annually at the first of every year a PMP account report from the State Board of Pharmacy (for the prior year) for all optometrists of their prescribing activities. No action was taken on this motion. After discussion Vice President Jeff Austin, O.D. made a motion to remove this item from the legislative proposal package and to request a PMP report annually from the Nevada State Board of Pharmacy. President Mariah Smith, O.D. seconded the motion. Motion carried unanimously.
- B. Require supervision of students and residents working in clinical optometry practices.
- C. Reduce initial licensing fees for veterans; Expedite process to license military spouses.
- D. Require Executive Director to offer reasoning to complainant when rejecting a Complaint. Vice President Jeff Austin, O.D. moved to remove this item from our legislative package and make it a Board policy. Drew Johnson seconded the motion. Motion carried unanimously.
- E. Make Substitute Optometrist fees more equitable. Vice President Jeff Austin, O.D. made a motion to remove this item from the legislative package. No action was taken on the motion. After discussion, President Mariah Smith, O.D. made a motion to remove this item from the legislative package. Vice President Jeff Austin, O.D. seconded the motion. Motion carried unanimously.
- F. Require owners of optometric entities to form "professional entities" such as PC, PLLC – so that they must be licensed and in good standing as optometrists to maintain entity status with NV Sec. of State. President Mariah Smith, O.D. made a motion that we replace this item with the requirement that the optometrist must refile fictitious business names with the Board every five years with a list of the owners if there is no change, and with a change they must refile a fictitious business name within 10 days of the change, and all owners must be registered Nevada licensed optometrist. Vice President Jeff Austin, O.D. seconded the motion. Motion carried unanimously.
- G. Allow Optometrists to serve as the 'medical director' holding the CLIA waiver under NAC 652.155.
- H. Eliminate potential barriers to diversity and inclusion in optometry, including migrants and refugees. President Mariah Smith, O.D. made a motion to remove this item from the legislative package. Vice President Jeff Austin, O.D. seconded the motion. Motion carried unanimously.

- J. Add continuing requirement to update Board within 30 days if disciplined by any other jurisdiction after becoming licensed in Nevada, or if there are changes to mailing address, practice locations, designated email or primary telephone numbers.
- K. Permit 1-year time frame to transfer practice ownership after O.D. death
- L. Authorize technician to operate devices, collect samples under CLIA
- M. Define the practice of optometry more precisely.
- N. Other topics: This agenda item was reopened later in the meeting.
- I. Determine optometric telemedicine scope of practice. (This item was taken out of order).

President Mariah Smith, O.D. made a motion to approve our final legislative package as items B, C, F (as amended), G, I, J, K, L, and our new items, closing the Endorsement loophole by having an Active license in another jurisdiction and compliance with our continuing education requirements, and allowing for background check on licensees. Vice President Jeff Austin, O.D. seconded the motion. Motion carried unanimously.

12. Delegation of authority to the President of the Nevada State Board of Optometry to represent the Board at the 2023 Legislative Session or any subsequent special sessions called, including without limitation, confirmation of authority to direct staff on matters relating to the Board's proposed bill draft to amend NRS Chapter 636 and statutes and regulations related thereto. Stephanie Lee, O.D. made a motion to permit President Mariah Smith, O.D. to represent the Board through the 2023 legislative session and make any amendments that we need moving forward. Drew Johnson seconded the motion. Motion carried unanimously.

13. Consideration and acceptance of both Contracts for Audit and for Lobbying Services. President Mariah Smith, O.D. made a motion to accept the Audit and Lobbying service contracts. Stephanie Lee, O.D. seconded the motion. Motion carried unanimously.

14. Litigation status regarding Petition for Judicial Review in Case No. 22-04. Executive Director Caren C. Jenkins reported that a petition for judicial review was received and filed in Clark County and assigned to Department 11. Dr. Youssef's counsel did an ex parte filing for an extension of time without giving us an opportunity to respond. Joel Becker from the Attorney General's office will be representing the Board in that appeal. As the appeal goes forward, Director Jenkins will provide a status update.

15. Fiscal Year Review and Consideration of Proposed Biennial Budget for 2022-2024.

A. 2021-22 Budget Recap and 2022-23 Budget Proposal.

Executive Director Caren C. Jenkins reported on the proposed budget with two additions suggested by President Mariah Smith, O.D. (1) Add travel expenses for a yearly participant to attend the ARBO meeting, and (2) include a sum for increased Attorney General costs. Director Jenkins also added back the per diem and travel costs for two additional meetings. Drew Johnson made a motion to accept the budget as Executive

Director Caren C. Jenkins recommended. President Mariah Smith, O.D. seconded the motion. Motion passed unanimously.

B. Ms. Jenkins reported that, as of July 1, 2022, COLA of 1% provided to State employees generally;

C. consideration of compensation enhancement for Board staff.

Drew Johnson recommended that we continue with our policy to accept the State cost of living adjustment and consider a performance bonus for staff in December.

The meeting went into lunch recess, and reconvened at 1:00 p.m.

9. (This item was taken out of order) Consideration of complaints presented to licensees with identified deficiencies at 2022 renewal. The following licensees have been notified and given an opportunity to respond to the allegations and were provided a notice of hearing at their email addresses of record. Each has either requested a hearing or failed to respond.

The Board heard from Jason Bolenbaker, O.D. regarding Complaint 22-101. His understanding of the regulation changes did not require him to re-register his fictitious name, due to no changes in ownership or location. After discussion, the Board found that there was a miscommunication, and the allegation was recommended for dismissal. Vice President Jeff Austin, O.D. moved that the Board vacate the administrative fines received for fictitious name registration filings. Board Counsel Asheesh Bhalla, Esq. agreed and recommended potentially refunding those fees because he indicated that there is no statutory or regulatory basis for the fines imposed. The motion was not acted upon. Executive Director Caren C. Jenkins suggested that the Board review the statutes and regulations about how they apply to Dr. Bolenbaker. President Mariah Smith, O.D. made a motion that Dr. Bolenbaker file his fictitious name with the Board and pay the \$50.00 applicable filing fee within 30 days, with no fine imposed. Vice President Jeff Austin, O.D. seconded the motion. Motion passed unanimously.

The Board heard from Tina Licina, O.D. regarding Complaint 22-101. Dr. Licina indicated that she had never practiced at the Maryland Parkway location in question, although she was required by her employer to add it as a practice location. After discussion Vice President Jeff Austin, O.D. moved that the Board dismiss the fine. Drew Johnson seconded the motion. Motion passed unanimously.

Executive Director Caren C. Jenkins, Esq asked for direction from the Board on how to proceed with the Complaint alleged against Kant Ng, O.D. Stephanie Lee, O.D. made a motion that Kant Ng, O.D. would be required to re-file his fictitious name filing with the Board and pay the applicable \$50.00 filing fee. Vice President Jeff Austin, O.D. seconded the motion. Motion passed unanimously.

11. Final Consideration and approval of legislative proposals:

N. Other topics: This agenda item was reopened from earlier in the meeting.

President Mariah Smith, O.D. made a motion to add citation authority to our legislative package. Drew Johnson seconded the motion. Motion carried unanimously.

16. Public Comment. No public comment was offered.

17. **Adjournment.** Vice President Jeff Austin, O.D. moved to adjourn the meeting at 1:54 p.m.. Stephanie Lee, O.D. seconded the motion. Motion carried unanimously.

* * * * *

FY 2022-2023 Regular meeting schedule

Thurs. September 8 – Regular Board meeting – Noon – Zoom or telephone
Thurs. October 13 – Reg. Bd. meeting – Noon – Zoom or telephone
Thurs. December 8 – Reg. Bd. meeting – Noon – Zoom or telephone
Thurs. February 23 – 8:30 am **ALL DAY** in Las Vegas or by Zoom
Thurs. April 20 - – Reg. Bd. meeting – Noon – Zoom or telephone
Thurs. June 22 – 8:30 am **ALL DAY** in Reno or by Zoom

* * * * *

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on September 8, 2022.

Caren C. Jenkins, Executive Director

AGENDA ITEM NO. 4 – Proposed Settlement Case No. 22-09

SEE ATTACHMENT.

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

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

Petitioner,

-vs-

NIDHA NATHANI, O.D., LIC. NO. 1118

Respondent.

Case No.: 22-09

**STIPULATION FOR SETTLEMENT
OF COMPLAINT**

This Stipulation for Settlement of Complaint Agreement (or "Stipulation") is entered into by and between the Petitioner, the STATE OF NEVADA BOARD OF OPTOMETRY ("Board"), by and through its President MARIAH SMITH, O.D. and its Executive Director, CAREN C. JENKINS, ESQ. ("Executive Director") and the Board's legal counsel, ASHEESH BHALLA, ESQ., Deputy Attorney General; and the Respondent, NIDHA NATHANI, O.D. ("Respondent"), by and through her attorney, LYN E. BEGGS, ESQ. of THE LAW OFFICES OF LYN E. BEGGS, PLLC.

I. ALLEGED FACTS

A. GENERAL FACTS

1. On or about March 29, 2022, the Board mailed Respondent a letter indicating that it had received a Complaint, Case No. 22-09, and ordered Respondent to Cease and Desist from the activity alleged in the complaint.

2. The Board provided RESPONDENT with a formal Notice and Complaint and invited Respondent to submit a response to the allegations contained therein. Served with the Complaint and Notice was a Subpoena requesting documents related to the Complaint.

1 3. On or about May 18, 2022, Respondent's counsel provided a notice of
2 representation and indicated that a response to the allegations would be
3 forthcoming.

4 4. Respondent timely submitted her Response to the Complaint ("Answer") to
5 the Board and provided documents responsive to the Subpoena served therewith.
6

7 5. In addition, counsel for RESPONDENT submitted a letter dated July 18,
8 2022, requesting settlement negotiations and indicating a willingness to cooperate
9 with Board Staff to resolve the matter.

10 6. This proposed Stipulation for Settlement of Complaint is the result of those
11 negotiations.

12 **B. ALLEGATIONS**

13 7. RESPONDENT is a recently licensed optometrist who entered a Professional
14 Services Agreement with 20/20 Vision Services, PC to provide optometric services.

15 8. 20/20 Vision Services provides data collection in a retail setting for optical
16 companies, including Brillen.com

17 9. Brillen.com operated a retail storefront in Las Vegas Nevada until recently.
18

19 10. At that storefront, a patient may walk-in or make an appointment for a vision
20 exam conducted by a 20/20 Vision Services or Brillen.com employee. The employee
21 conducts various ocular tests using electronic and other equipment, capturing images
22 and transmitting them to 20/20 Vision Services.

23 11. RESPONDENT had no direct or indirect supervisory access or authority over
24 the assistant conducting the testing at the Las Vegas site.

12. RESPONDENT reviewed electronic images and information collected on or about March 24, 2022, at the Las Vegas location, provided to her by 20/20 Vision Services. She evaluated the information available and created a prescription for spectacle lenses for the subject without ever meeting the patient or conducting an in-person eye examination. She allowed her signature to be affixed to the prescription.

II. ALLEGED VIOLATIONS

A. Violation of NRS 636.346.

13. Based upon the evidence available to date, the Executive Director alleges, for this matter and not for any other purpose, including any subsequent civil action, Respondent has violated NRS 636.346 as follows:

NRS 636.346 Supervision of authorized activities of assistants; conduct of final eye examination of patient.

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

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

(a) Prepare a patient for examination.

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

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

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

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

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

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

(Added to NRS by [2019, 3635](#))(Emphasis added.)

1 14. In this instance, Respondent violated NRS 636.346(2) by failing to directly
2 supervise an assistant employed by a medical facility or medical provider at which or
3 for which Respondent provided or offered to provide optometry services.

4
5 15. In addition, Respondent violated NRS 636.346(3) by offering a prescription for
6 eyeglasses despite having never examined the patient and failing to conduct the final
7 eye examination of the patient.

8 **III. JURISDICTION**

9
10 16. The Respondent was, at all times relevant to this Stipulation, licensed as an
11 optometrist by the Board under License Number 1118, and is therefore subject to the
12 jurisdiction of the Board and the provisions of NRS Chapter 636 and NAC Chapter
13 636.

14 **IV. STIPULATED SETTLEMENT TERMS**

15 17. The Board is prepared to put on a case based on the offenses alleged in the
16 Complaint, and the Board is authorized and empowered under NRS 636.420 and NRS
17 636.325(1) to impose administrative fines between \$100 and \$5,000 for each violation
18 and/or suspend, revoke, or place conditions on the license of Respondent for any
19 violations.

20
21 18. Based upon the evidence available to date, the findings of the Executive
22 Director, and the Respondent's acknowledgement of and stipulation to the violations
23 contained in Paragraphs 14 and 15 above, the parties have agreed to resolve the
24 pending Complaint pursuant to the following disciplinary terms and conditions:

- 25 a. Respondent agrees to pay the Board the sum of Three Thousand
26 Dollars (\$3,000.00) in administrative fines for the stipulated violation of
27 NRS 636.346 as outlined. Payment is due to the Board within sixty (60)

1 days after the effective date of the Board's approval of this Stipulation. If
2 the Respondent fails to pay the fine in the time provided, her license will
3 be immediately suspended, and the Board may initiate a collection
4 action against the Respondent to collect the administrative fine and
5 costs of collection.

6 b. Respondent agrees to the imposition of a 2-year period of probation,
7 during which she agrees to desist from participating in any telemedicine-
8 related practice and/or examination of a patient via remote means. If,
9 after notice and an opportunity to respond, Respondent is found to have
10 undertaken acts during the probationary period that result in a finding of
11 a violation of NRS Chapter 636 or NAC Chapter 636 in any manner
12 related to the activities forming the basis of the instant action, even if the
13 ultimate finding is made after the expiration of the probationary period,
14 she agrees that her license will be immediately suspended, and that the
15 Board may impose any additional sanction or penalty it deems
16 appropriate.
17

18 19. The Board agrees not to impose any other or greater remedies or fines in
19 connection with the allegations referenced in the Complaint other than those stated
20 herein.

21 20. The Respondent and the Board agree that by entering into this Stipulation,
22 the Board does not concede any defense or mitigation the Respondent may assert,
23 and that once this Stipulation is approved and fully performed, the Board will close its
24 file in these matters.
25

26 21. The Respondent understands the public records law may require this
27 Stipulation and related documents be made available for public inspection. The

Respondent also understands that the Board may share the contents of this Stipulation and related documents with any governmental or professional organization or member of the public or publish its terms in the Board's newsletter.

22. The Respondent agrees that if she fails to pay the administrative fine within sixty (60) days of entry of the Board's Order, the Board may rescind this Stipulation and proceed with a properly noticed hearing on the Complaint.

V. INFORMED CONSENT

23. Respondent has read all of the provisions contained in this Stipulation and agrees with them in their entirety. Respondent recognizes and agrees this Stipulation is the result of voluntary settlement negotiations which involved give and take, and the final agreement (i.e., this Stipulation) is a voluntary compromise.

24. Respondent acknowledges and admits she has carefully read and understands the issues and allegations in the Complaint referenced and addressed herein. Respondent also acknowledges and admits she has carefully read and understands the effects of this Stipulation.

25. Respondent is fully aware of her legal rights in this matter, including the right to a formal hearing relative to the issues and allegations in the Complaint referenced and addressed herein. Respondent is also fully aware she has a right to retain counsel for this matter, the right to confront and cross-examine the witnesses against her, the right to present evidence and to testify on her own behalf, the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the Nevada Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above, and as more fully set forth herein and below.

1 26. Respondent is aware by entering into this Stipulation she is waiving certain
2 valuable due process rights contained in, but not limited to, NRS 636, NAC 636, NRS
3 233B and NAC 233B.

4 27. Respondent and the Board agree any statements and/or documentation
5 made or considered by the Board during any properly noticed open meeting (to which
6 Respondent hereby specifically waives any and all notice requirements for same,
7 whether required by NRS 241.033 or any other statute or regulation) to determine
8 whether to adopt or reject this Stipulation are settlement negotiations and therefore
9 such statements or documentation may not be used in any subsequent Board hearing
10 or judicial review, whether or not judicial review is sought in either the State or Federal
11 District Court.
12

13 28. Respondent acknowledges she has read this Stipulation. Respondent
14 acknowledges she has been advised he has the right to have this matter reviewed by
15 independent counsel and she has had ample opportunity to seek independent
16 counsel. Respondent has been specifically informed he should seek independent
17 counsel and that gaining the advice of independent counsel would be in Respondent's
18 best interest. Having been advised of her right to independent counsel, as well as
19 having the opportunity to seek independent counsel, Respondent has retained LYN
20 BEGGS, ESQ. of the Law Offices of Lyn E. Beggs, PLLC as her attorneys and has
21 reviewed this Stipulation with her attorneys. Respondent specifically acknowledges
22 she understands all of this Stipulation's terms and conditions and agrees with the
23 same.
24
25
26
27
28

VII. OTHER TERMS

29. Respondent acknowledges no other promises in reference to the provisions contained in this Stipulation have been made by any agent, employee, counsel or person affiliated with the Board.

30. Respondent acknowledges the provisions in this Stipulation contain the entire agreement between Respondent and the Board and the provisions of this Stipulation can only be modified, in writing, with Board approval.

31. In the event the Board adopts this Stipulation, Respondent hereby waives any and all rights to seek judicial review or otherwise to challenge or contest the validity of the provisions contained herein.

32. Respondent and the Board agree none of the parties shall be deemed the drafter of this Stipulation. In the event this Stipulation is construed by a court of law or equity, such court shall not construe it or any provision hereof against any party as the drafter. The parties hereby acknowledge all parties have contributed substantially and materially to the preparation of this Stipulation.

33. Respondent specifically acknowledges by her signature on this Stipulation she has read and understands its terms and acknowledges she has signed and initialed of her own free will and without undue influence, coercion, duress, or intimidation.

34. Respondent acknowledges in consideration of execution and adoption of this Stipulation, Respondent hereby releases, absolves and forever discharges the State of Nevada, the Board, and each of their members, agents, employees and legal counsel, in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands

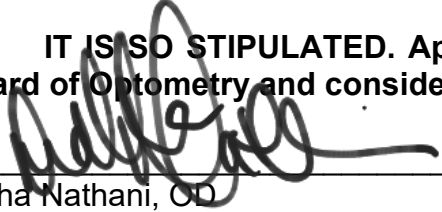
1 whatsoever, known and unknown, in law or equity, that Respondent ever had, now
2 has, may have, or claim to have against any or all of the persons or entities named in
3 this section, arising out the above-referenced Complaint, as well as the negotiation
4 and completion of this Stipulation.

5 35. In the event the Board adopts this Stipulation, Respondent agrees it may be
6 considered in any future Board proceeding(s) or judicial review, whether such judicial
7 review is performed by either the State or Federal District Court(s).

8 36. This Stipulation has been considered by the Board in an open meeting on
9 September 8, 2022. This Stipulation is considered a final disposition of a contested
10 case and will become a public record and will be reportable to the National Practitioner
11 Data Bank.

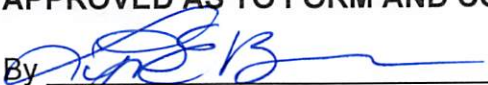
12 37. This Stipulation is not effective until all signatures are affixed. Signatures
13 may be completed in counterpart, either in original or facsimile form.

14 **IT IS SO STIPULATED. Approved by a majority vote of the Nevada State**
15 **Board of Optometry and considered entered on the 8th day of September 2022.**

16 By  this 1 day of September 2022.
17 Nidha Nathani, OD
18 Respondent

19 By _____ this ____ day of September 2022.
20 Mariah Smith, O.D.
21 President, Nevada State Board of Optometry
22
23
24
25
26
27

1 **APPROVED AS TO FORM AND CONTENT**

2 By  this 18 day of September 2022.

3 Lyn Beggs, Esq.
4 Law Offices of Lyn E. Beggs, PLLC
5 Counsel for Respondent

6 By _____ this _____ day of September 2022.

7 Caren C. Jenkins, Esq.
8 Executive Director, Nevada State Board of Optometry

9 By _____ this _____ day of September 2022.

10 Asheesh Bhalla, Esq.
11 Deputy Attorney General
12 Board Counsel, Nevada State Board of Optometry

13 **BOARD ACTION**

14 This Stipulation for Settlement of Complaint in the matter of Nidha Nathani,
15 O.D., Case No. 22-09 was (initial appropriate action):

16 Approved: _____ Disapproved _____

17 by a majority vote of the Nevada State Board of Optometry at a properly noticed
18 meeting on September 8, 2022. Following are the recorded votes of members of the
19 Board:

20 Mariah Smith, O.D., President _____

21 Jeffrey Austin, O.D., Vice President _____

22 Stephanie Lee, O.D., Board Member _____

23 Drew Johnson, Public Board Member _____

24 DATED this _____ day of September 2022.

25 **Caren C. Jenkins, Executive Director**
26 **NEVADA STATE BOARD OF OPTOMETRY**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

Petitioner,

-vs-

NIDHA NATHANI, O.D., LIC. NO. 1118

Respondent.

Case No.: 22-09

ORDER DISMISSING COMPLAINT

The attached Stipulated Settlement Agreement regarding Complaint No. 22-09 came before the Nevada State Board of Optometry for consideration at its regular meeting held on September 8, 2022.

Based on its review of the documents before it, **THE BOARD FINDS:**

1. The stipulations of fact support Respondent's actions in violation of NRS Chapter 636.346 and the agreed-upon imposition of discipline is accepted as appropriate under the circumstances.
2. Within sixty (60) days of the entry of this order, Respondent shall pay a \$3,000 administrative penalty to the Board.
3. For a period of 2 years from the date of entry of this order, Respondent's license shall be on probation. During this probationary period, Respondent shall not participate in any activity related to telemedicine in optometry or any remote-access eye examinations. Respondent shall not issue or allow to be issued any prescriptions for patients she has not examined personally. Respondent shall directly supervise all assistants involved in her practice of optometry. Should Respondent be found to have engaged in any

conduct in violation of Chapters 636 of NRS or NAC related in any way to her activities as stipulated in Case No. 22-09, Respondent's license to practice optometry in Nevada shall be immediately suspended, the stipulated settlement shall be automatically rescinded, and the Board shall be entitled to proceed with a hearing on the allegations in the instant complaint without regard to any previous stipulation in Case No. 22-09.

Based on the foregoing and good cause appearing therefor,

IT IS ORDERED the Complaint be dismissed. A copy of the Complaint and this Order shall be maintained in the licensee's file. Should a similar complaint come before the Board, the content of this matter may be considered as evidence.

DATED this _____ day of _____, 2022.

Caren C. Jenkins, Esq., Executive Director

AFFIDAVIT OF SERVICE

I, Nancy Padilla, an employee of the Nevada State Board of Optometry, on _____, 2022, caused a true and correct electronic copy of the foregoing Order Dismissing Complaint and the materials considered by the Board to be emailed to Respondent's Counsel at her email address of record, _____ @ _____. I also placed a printed copy of the foregoing documents into the hands of the United States Postal Service by first-class mail, postage prepaid, on the date listed below, being addressed as follows:

To Complainant: ADDRESS WITHHELD

To Respondent: C/O Lyn Beggs, Esq.
Law Offices of Lyn E. Beggs, PLLC

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

Date: _____ Signature: _____

AGENDA ITEM NO. 5B – Confirming Licensure Status in other Jurisdictions for Endorsement and other Applicants

As the internet continues to evolve, certain jurisdictions have modified their methods of confirming the license status of current and former licensees. In a handful of states, the boards no longer issue letters of good standing. Therefore, staff requests the Board approve the following. These methods are simply procedural and historic. No changes need be made to statute, regulation or policy.

Information required for verification:

Name, license number, date first issued, dates valid, certifications, history of discipline imposed, any investigations/complaints pending.

Permissible methods of confirmation, in preferred order:

1. Official letter of good standing issued within previous 14 days, sent from licensing agency
2. Email or FAX received directly from licensing agency
3. Only if the applicant is unable to request and/or obtain either of the above, staff may obtain and rely upon available internet-based Primary Source Verification from a licensing agency, posted within previous 14 days

AGENDA ITEM NO. 5C – Processing Complaints

SUMMARY OVERVIEW

On Receipt of Complaint – Reviewed by ED, assigned Case #, informal review, determination of validity. If no evidence or No Jurisdiction (NJ) – referral to proper agency or internal dismissal with notice to complainant. If jurisdiction and possible merit, issue "soft" informative email/letter to licensee and ask for or subpoena docs/info.

Investigation – assign to outside investigator if necessary or contact witnesses, review documents, seek out info sources. Receive info, continue investigation or make determination to dismiss. Upon investigation completion, consult with DAG, make recommendation for dismissal or if recommend that sufficient evidence exists, send investigative report and file to DAG. If respondent or counsel desire substantive communication and correspondence, consider forwarding to DAG.

Upon DAG determination of sufficiency - Formal Complaint/Accusation issued with 233B letter or dismissal. No stipulations or settlements before this point.

Stipulations or Settlement - If respondent wants to settle or stip, notify DAG to prepare agreement. Possible to stipulate to facts, accept admissions, full settlements, terms and conditions. Propose settlement to Board or proceed to hearing.

Formal Hearing – Board counsel is prosecutor. Another DAG assigned as Board counsel for Hearing. Executive Director, investigator, complainant and other corroborating persons participate as witnesses at hearing.

DETAILED PROCESS AND EXPLANATIONS

Formal Complaint/Accusation

A formal complaint is an allegation against an individual optometrist for violation of Nevada optometry law and/or regulations.

A complaint may be filed by anyone who believes a licensed optometrist or other individual, agency or organization has or is engaged in illegal or unethical activities involving the practice of optometry. Complaints may result in dismissal, referral to a more appropriate agency, formal hearing and/or disciplinary action.

Complaints, supporting evidence, documentation and investigative files are confidential until an Accusation is filed in the matter.

A formal complaint must be submitted in writing. A Complaint Form is available on the Board website or upon request from the Board office.

In addition to identifying the violative conduct and the statute or regulation violated, some credible evidence, information and/or documentation must be provided to determine the validity of the allegations.

Anonymous Complaints

Complaints may be submitted anonymously and will be accepted but will not be processed with insufficient evidence or documentation of an alleged violation of law or regulation. Anonymity may make it impossible to process a complaint.

Complaint Review

Complaints are reviewed by the Executive Director upon receipt for jurisdiction and a determination of potential violations. All complaints received are assigned a complaint case number. The Complainant is contacted if additional information or clarification is needed to make a determination of validity. Based upon the severity of the allegations and nature of the complaint, the DAG may be consulted.

Determination of Validity

Administrative Dismissal - The complaint may be dismissed without further processing if:

- it is incomplete or unsubstantiated and no credible documentation or evidence is available from the Complainant, or
- the Board has no authority over the alleged actions; or
- referral to another regulatory agency is not appropriate.

The Complainant will be notified by letter and the case will be closed.

Referral

If the complaint is clearly not under the authority of the Board but appears to be within the authority of another regulatory body, the complaint will be referred, and the Complainant notified.

The Respondent may obtain legal counsel for representation in the matter

Formal Investigation

No information on an active investigation will be released to anyone other than those with a need to know. The Investigator will issue a report upon conclusion of the investigation with findings. The Executive Director will make recommendations to the DAG for further action or resolution based upon the investigative report.

Response to Complaint

Once the DAG determines that the matter will move forward, communication and correspondence will be initiated through the Board's legal counsel in consultation with the Executive Director during the duration of the Complaint process.

Settlements and Stipulations

The Respondent may agree with the allegations in the Complaint in full or in part and may propose that the parties enter into a stipulation during any phase of the complaint process, after a formal complaint is filed by the DAG. The stipulation is negotiated by the Board legal counsel in consultation with the Executive Director. A stipulation must be considered by the Board at a public hearing or meeting of the Board. A stipulated settlement is an agreed-to disciplinary action and becomes a public record.

Formal Hearing

If sufficient evidence is determined to substantiate a violation of law and/or regulations, an Accusation and Notice of Formal Hearing will be undertaken by the DAG. Between the time the Accusation is served and the hearing takes place, staff may be contacted, but all communications should be forwarded to the DAG prosecuting the matter.

The Formal Hearing is held before the Board and the Board Chair presides. The Board's legal counsel will advise the Board and the Board's regular assigned DAG will serve as prosecuting attorney for the Complaint. Testimony will be heard from all parties, both sides may provide witness testimony and present evidence to support their case.

Board members may ask questions and request additional clarification during the Formal Hearing.

Disciplinary Determination

The Board may take any combination of the following actions upon conclusion of the legal presentation and consideration of the evidence presented:

- Dismiss
- Impose discipline and penalties per statute and as determined by the Board
- Suspend a License for a period of up to 1 year
- Revoke a License for a period of up to 5 years
- Deny a License in a case of practicing without a license

The Board may recover reasonable attorney fees and costs relating to the complaint process.

Reporting of Disciplinary Action

All formal disciplinary actions are reported to:

- National Practitioners Data Bank;
- Nevada Legislative Counsel Bureau Disciplinary Action reporting system

AGENDA ITEM NO. 6 – Citation Authority – proposed language

NRS 636.290 Authority of Board; authorized actions by Board.

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

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

- (a) Issuing a letter of public reprimand;
- ~~(b) Issuing an order to cease and desist;~~
- (c) Issuing an order of probation for a specified period, with or without conditions;
- (d) Issuing an order of suspension for a specified period, with or without conditions; or
- (e) Issuing an order of revocation, with or without permission to apply for licensure at a future date.

3. In addition to any other penalty prescribed by law, if the Board determines that a person has violated any provision of this chapter, the Board may:

(a) Issue and serve on the person an order to cease and desist until the person obtains from the Board the proper license or otherwise demonstrates that he or she is no longer in violation of this chapter. An order to cease and desist must include information with which the person may contact the Board.

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

(c) Assess against the person an administrative fine of not more than \$5,000 per violation.

(d) Impose any combination of the penalties set forth in paragraphs (a), (b) and (c).

[66:208:1955]—(NRS A [1985, 155](#); [1993, 2871](#); [2019, 3647](#))

THE GREENSHEET

Summer

2022

ARBO's 2022 Annual Meeting In Person Again!

The ARBO Annual Meeting took place at the Palmer House Hotel in Chicago, Illinois, on June 12-14, 2022. A virtual option was also available for delegates that were unable to attend the meeting in person. The Annual Meeting was attended by 84 individuals, which included 53 delegates from 36 member boards.

Dr. Coby Ramsey, President, called the meeting to order on Sunday, June 12, 2022. He then introduced Dr. Charlotte Nielsen of the Illinois Board of Optometry who welcomed the delegates to Chicago. Dr. Coby Ramsey thanked the delegates for attending the meeting. He then recognized the ARBO Board of Directors and thanked them for their work over the past year. Dr. Ramsey also noted some of the accomplishments of the Board of Directors over the past year. Next, he introduced ARBO's Executive Director, Ms. Lisa Fennell. Ms. Fennell thanked the delegates for attending, introduced the staff and reported some of the staff accomplishments over the past year.

Dr. Patrick O'Neill, Acting Secretary-Treasurer, then presented the 2021 Independent Auditor's Report and Financial Statements. Following this, the Delegates approved the minutes from the 2021 Annual Meeting.

Next, Dr. Bill Rafferty, Chair of the Nominating Committee, introduced the committee members and announced the positions that were open on the Board of Directors: one 4-year term for the position of Dr. Rick Orgain, who is not eligible for re-election; one 4-year term for the position of Dr. Rebecca Sparks Dougherty, who is not running for re-election; and a one-year partial term for a Member Board Executive to complete the term of Ms. Patricia Bennett who has retired from the Maryland



Dr. Coby Ramsey presides over the 2022 Annual Meeting.

Board of Optometry and is not eligible for re-election.

Dr. Rafferty then announced the committee's slate of nominees for each position:

Board of Director Position 1: Dr. Terri Haley

Board of Director Position 2: Dr. Fred Goldberg and Dr. Glenn Kawaguchi

Board of Director Position 3: Ms. Margaret Whelan

Next, Dr. Terri Haley and Dr. Patrick O'Neill, Co-Chairs of the National Board Exam Review Committee, introduced the committee members and reviewed the committee's report and recommendations

regarding the NBEO exams. This was followed by Dr. Jill Bryant, NBEO Executive Director; Dr. Nicole Jerge, NBEO Director of Part II PAM, TMOD and LSPE; Dr. Brett Foley, Director of Professional Credentialing and Senior Psychometrician, Alpine Testing Solutions; who gave the delegates an update on the activities of the National Board of Examiners in Optometry.

After a short break, Dr. Coby Ramsey asked each member board in attendance to report on the activities in their jurisdiction, challenges they encountered over the past year, solutions that were implemented, and possible ways that ARBO can assist in the future.

After a break for lunch Dale Atkinson, Esq., conducted regulator training with the attendees where he presented some real cases and asked the attendees how they would handle the situation in their jurisdictions. This was followed by members of the COPE Governing Committee presenting posters that summarized their research on the relationship between CE format and educational outcomes.



ALSO IN THIS ISSUE:

Letter from the President.....	2
New Board Members Elected.....	3
Note from the Executive Director.....	3
2022 Approved Resolutions.....	6-7
2023 Annual Meeting Promo.....	10
COPE Research Posters.....	11-12
OE TRACKER Member Dashboard.....	13
New COPE Standards (SII).....	14
NBEO Laser Surgical Exam/New PEPS Exam.....	15-16



Dr. Coby Ramsey is the
President of ARBO

Hello ARBO. I would like to thank all those that attended, participated, and helped set up and run our national meeting. We had some great interactions, suggestions and comments. We will continue to make the national meeting more engaging and interactive. We will focus on items and concerns facing all of our jurisdictions.

As you settle back in at home I hope you have found ways to more fully engage with the programs available to all members of ARBO. Back in Wyoming we are going to transition to having ARBO audit all of our licensees. We find that by having all CE COPE accredited it makes it simple to audit. In Wyoming we pay for all our licensees to have a current *OE TRACKER* subscription. This makes it very easy for all to track CE hours and know if they have enough hours in the right categories. I would recommend doing the same in your jurisdiction. If you are unsure how to start call us and we can get you started.

I would like to share a funny story. We have our state meeting in Cody, Wyoming every July. Every year we point out that we only use the QR codes for tracking CE. We help OD's download the *OE TRACKER* mobile app and get them signed into the app. After the first class we show them how to scan (from about 10 feet away at times). They always ask, "are you sure it went through?" We tell them to just wait a few minutes and they will get an email telling them that the class has been added to their account. When the email comes in they say "Wow, that was easy!" We just smile and say, "yes, it is." Using ARBO programs is easy and fast.

So, what's next for ARBO? We are going to continue to improve *OE TRACKER*. The *OE TRACKER* committee has some great ideas to make it easier to track, submit, audit and share CE courses. Our COPE Committee, with

A Letter from the President

members from AAO and ASCO, continue to refine the COPE program to keep it the gold standard in healthcare CE accreditation. COPE presented two papers in the spring at the ACCME meeting on their research into whether CE format impacts the quality of learning. You can find the posters in this issue on p.11-12. COPE has also had a poster accepted for the upcoming Academy meeting and another one for the Alliance for Continuing Education in the Health Professions meeting early next year.

I'm also establishing a new work group to put together a model practice act. It will include language to help with practice act changes and how to implement those scope modifications. It will cover education for new and current licensees, certification, using the National Board modules and tracking outcomes.

Our CELMO committee is working on making CELMO a repository of all the documentation a licensee will need to show any jurisdiction where they want to obtain a license. License mobility is such a big issue now with telemedicine ramping up and ARBO wants to assist you with this effort.

If you would like to be on any of these committees let us know and you can help us make all of your wonderful programs even better. Enjoy your end of summer and fall and thanks for all you do to help make ARBO better.

Coby Ramsey, OD
ARBO President

Want more regulatory information?

Check out our blog at

blog.arbo.org

Visit ARBO's Facebook page at:

<http://www.facebook.com/pages/Association-of-Regulatory-Boards-of-Optometry/127983077242338?ref=ts>



New ARBO Board Members and Officers Elected

ARBO is pleased to welcome Dr. Terri Haley, Dr. Glenn Kawaguchi, and Ms. Margaret Whelan to the Board of Directors. They were elected to the Board during the annual meeting in Chicago in June.

Dr. Haley is a graduate of the University of Houston College of Optometry. She practices in Coeur d'Alene, Idaho. She has served on the Idaho Board of Optometry since 2016 and is currently the President of the Board. Dr. Haley is a member of Idaho Optometric Physicians and serves as Chair of their Insurance Advisory Committee. She also serves in the Idaho Medical Reserve Corps. She has been involved with ARBO for several years and has served on the *OE TRACKER* Committee, Judicial Council/Resolutions Committee, National Board Exam Review Committee, and CELMO Committee.

Dr. Kawaguchi graduated from the Southern California College of Optometry. He practices in Ventura and Santa Barbara, California. He has served on the California State Board of Optometry since 2012 where he participated on the Legislative/Regulatory Committee, Dispensing Optician Committee, and Children's Vision Workgroup. Dr. Kawaguchi is very active in his local community and he previously served on ARBO's

CELMO Committee.

Ms. Whelan is currently the Executive Director of the Arizona State Board of Optometry and has been with the Board since 2002. She received her BA degree from Creighton University and her MPA from Arizona State University. Ms. Whelan brings her unique perspective as a Member Board Executive to the ARBO Board and one of her goals as a Board member is to seek more effective ways to engage the membership. She has been involved with ARBO for many years and has served on the Member Board Executive Committee and Nominating Committee.

Please join us in congratulating Dr. Haley, Dr. Kawaguchi and Ms. Whelan! We are very excited to have them join the ARBO Board of Directors.

At the meeting, the Board also elected new officers for the 2022-2023 term. The officers are: President—Coby Ramsey, OD; Vice President—Jeffery Yunker, OD; Secretary-Treasurer—Kenneth Lawenda, OD; and Immediate Past President—Patrick O'Neill, OD.



A Note from the Executive Director

It was wonderful to see everyone in Chicago in June! It's hard to believe that it was three years since we were last together in person. We had a great meeting, and we were happy that we were able to offer a virtual option this year for those members that weren't able to travel. The planning committee made a few changes with the meeting this year. We hope you liked the new format. You can look for even more changes next year when we meet in the DC area.

We had 36 of our member boards attend the annual meeting this year. We were very happy to see all of you there, but there is still a number of you that didn't attend. I'd love to hear the reasons why you didn't come. Is there something ARBO can do that would enable you to be able to come next year? We've increased our travel stipends and scholarships to help you overcome budgetary issues. More information on those will be released early next year. ARBO's annual meeting also provides a venue to get together with your regulatory colleagues to discuss your unique challenges and learn about solutions to address them.

ARBO is your association, and our purpose is to provide tools to help you increase efficiency and do more with less. We added a new tool this year, the *OE TRACKER* Member Dashboard. If you haven't had a chance to try it

yet, please do so and let me know what you think. We're planning to introduce some more new tools later this year that we think you're really going to like! Stay tuned for more information.

2022 is flying by, and the summer is rapidly coming to an end. That means the kids are going back to school, the leaves will soon be changing color, and the weather is going to be cooler. It also means that the fall CE season will be starting and our staff is going to get very busy, very fast! We have a great group of very hard-working people at ARBO, and I can't thank them enough for all that they do.

The Board is finalizing the new committees and the staff is looking forward to working with them. We are also going to be increasing our communication efforts to make sure you are well informed about important regulatory issues and all of ARBO's programs. I'd encourage you to visit our blog frequently for more regulatory information. You can find it at: blog.arbo.org. I think you will find it a valuable resource. Please let me know if you have any topics you'd like us to write about, or if you want to volunteer as a guest blogger.

As always, feel free to contact me at LFennell@arbo.org with your suggestions or questions.

ARBO Annual Meeting Recap (continued)

Next, Dr. Eric Bailey, Chair of the *OE TRACKER* Committee, gave the delegates a report on the new features of *OE TRACKER* and the benefits of using the *OE TRACKER* mobile app for CE attendance tracking. After that, Ms. Emily Cronbaugh, Executive Director of the Wyoming Board of Optometry and Dr. Joan Hansen, Deputy Registrar of the British Columbia College of Optometrists, discussed their usage of *OE TRACKER* for auditing with the meeting attendees.

A presentation by Dr. Dorothy Hitchmoth, NECO Trustee, and Dr. Howard Purcell, NECO President, followed where they discussed the new hybrid OD program at New England College of Optometry and asked for feedback from the regulatory boards on the program.

Next, Dr. Ramsey called for nominations from the floor for each open position on the Board of Directors. There were no nominations made. Dr. Ramsey then allowed each nominee to address the delegates for a few minutes. The afternoon concluded with Dr. Ramsey inviting all the delegates to join him for the President's Reception.

On Monday, June 13th, Dr. Ramsey called the meeting to order again. He introduced Dr. Terri Haley, Chair of the Judicial Council/Resolutions Committee. Dr. Haley introduced the committee members and reported that the Judicial Council had reviewed the approved resolutions from the 2021 ARBO Annual Meeting and found them to be appropriate and consistent with the mission of the organization. She then introduced the two resolutions that had been approved by the committee this year for the delegates' consideration.

Next, Dr. Jeffery Yunker, ARBO Vice-President presented the proposed ARBO 2023 Budget that the delegates would be asked to approve the next day. Then, Dale Atkinson, Esq., gave the attendees a legal update on the current regulatory legal landscape and some cases having regulatory implications.

This was followed by Dr. Jill Bryant, NBEO Executive Director; Dr. Brett Foley, Senior Psychometrician, Alpine Testing Solutions; Dr. Mandy Sallach, NBEO Director of Clinical Testing who gave a report to the delegates about NBEO's new Part III Patient Encounters and Performance Skills (PEPS) Examination.

Later in the morning, Dr. Leo Semes gave the delegates a presentation on Artificial Intelligence in Healthcare. This was followed by a report from Dr. Kenneth Lawenda and Dr. Richard Orgain, Co-Chairs of the CELMO Committee on different methods used for license mobility and an update on ARBO's CELMO program. Ms. Margaret Whelan, Executive Director of the Arizona Board of Optometry, joined them to discuss how her Board uses CELMO to assist with determining the eligibility of optometrists with a license in another state who apply for a license in Arizona.

After lunch, four CE providers joined the meeting to discuss their experiences with synchronous and asynchronous CE. The panelists included Gary Chu, OD, MPH, FAAO, Vice President of Professional Affairs, New England College of Optometry; Adam Farkas, MD, MBA, Chief Technologist, ODwire.org; Elizabeth Grantner, Senior Director of Continuing Education, events and Alumni Engagement, Illinois College of Optometry; and Leo Semes, OD, Professor Emeritus, University of Alabama School of Optometry.

Next, Dr. Jeffery Yunker, COPE Committee Chair, gave a report on the activities of the committee. Following the COPE report, the delegates were able to choose between two afternoon workshops by either NBEO or Dale Atkinson.

On Tuesday, June 14th, Dr. Ramsey reconvened the meeting. Dr. Jeffery Yunker, ARBO Vice President, reviewed the proposed ARBO 2023 Budget and after discussion the budget was approved by the delegates.

Next, Dr. Ramsey presided over the election for the Board of Directors.

Position 1: Placed onto the slate by the Nominating Committee: Dr. Terri Haley. Dr. Haley was elected by acclimation by the delegates.

Position 2: Placed onto the slate by the Nominating Committee: Dr. Fred Goldberg, and Dr. Glenn Kawaguchi. An anonymous written vote was taken after which Dr. Ramsey reported that Dr. Glenn Kawaguchi had received a majority of the votes cast.

Position 3: Placed onto the slate by the Nominating Committee: Ms. Margaret Whelan. Ms. Whelan was elected by acclimation by the delegates.

After the election Dr. Terri Haley, Chair of the Judicial Council/Resolutions Committee, reviewed the two resolutions that had been presented. Resolution Number 1 which recognized the service of Ms. Patricia Bennett to ARBO and granted her Honorary Life Membership in the Association was adopted by the delegates.



Ms. Patricia Bennett receiving Honorary Life Membership.

Resolution Number 2 which recognized the service of Dr. Coby Ramsey to ARBO and granted him Life Membership in the Association was also adopted by the delegates. The full text of the resolutions can be found on pages 7-8.

ARBO Annual Meeting Recap *(continued)*

Next, Dale Atkinson, Esq. gave the delegates a presentation on recent regulatory activities found in the news.

After a short break, Dr. Coby Ramsey reported that the Board of Directors had elected the following officers for 2022-2023: Dr. Coby Ramsey will serve as President again, Dr. Jeffery Yunker was elected Vice President, and Dr. Kenneth Lawenda was elected Secretary-Treasurer. Dr. Patrick O'Neill will serve as Immediate Past President again.

The morning ended with a report from Dr. Stephanie Messner, ACOE Chair. The meeting concluded with all ARBO Past Presidents in attendance passing the gavel ending with Dr. Patrick O'Neill (2020-2021) passing the gavel to Dr. Coby Ramsey (2021-2023). Dr. Ramsey then adjourned the meeting.



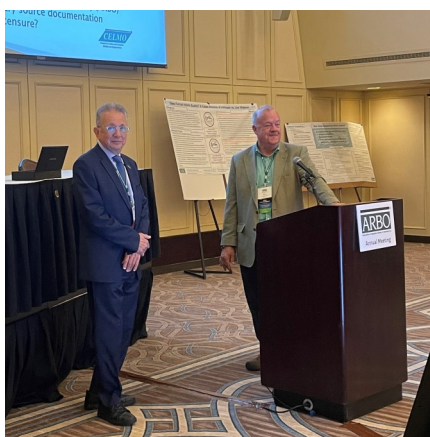
ARBO Annual Meeting attendees.



ARBO Past Presidents: Dr. Donovan Crouch, Dr. Michael Ohlson, Dr. Susy Yu, Dr. Rick Orgain, Dr. Jim Campbell, Dr. Patrick O'Neill, and Dr. Coby Ramsey.



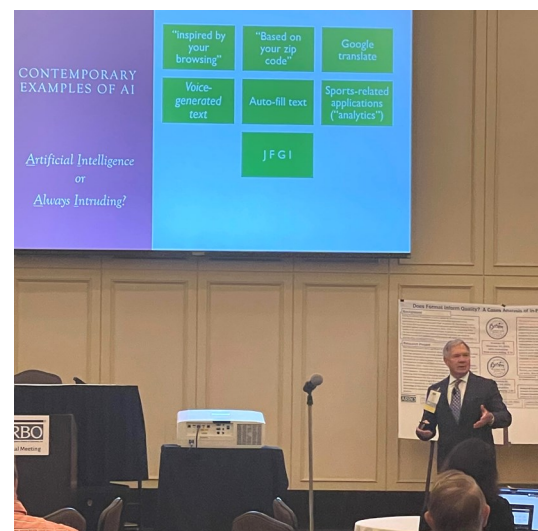
Dr. Jim Campbell introducing the CE provider panel.



Dr. Ken Lawenda and Dr. Rick Orgain give the CELMO report.



ARBO Staff at the registration desk.



Dr. Leo Semes presenting on Artificial Intelligence.

Annual Meeting Approved Resolutions

2022 Resolution #1

Honoring Patricia Bennett

WHEREAS, Ms. Patricia Bennett has performed an outstanding service for the Association of Regulatory Boards of Optometry during her service on the Board of Directors of ARBO since being elected in 2019. Ms. Bennett served as a consultant to the Board of Directors for two years and served one term as Secretary-Treasurer in 2021-2022.

WHEREAS, her service has been exemplified by sterling qualities of leadership which underlie her personal successes and those of the Association of Regulatory Boards of Optometry; and

WHEREAS, Ms. Patricia Bennett has given outstanding service through her role as Executive Director of the Maryland Board of Examiners in Optometry, and in various other capacities; and

WHEREAS, the member boards of this Association wish formally to acknowledge Ms. Patricia Bennett's distinguished contributions to the Association; now, therefore be it

RESOLVED, that the Association of Regulatory Boards of Optometry, at this 103rd Annual Meeting, express its sincere appreciation to Ms. Patricia Bennett for her many years of distinguished service and outstanding contributions and bestow upon her the status of **Honorary Life Member** in this Association.

Approved by the ARBO House of Delegates, June 14, 2022

Annual Meeting Approved Resolutions (continued)

2022 Resolution #2

Honoring Dr. Coby Ramsey

WHEREAS, Dr. Coby Ramsey has performed an outstanding service for the Association of Regulatory Boards of Optometry during his service on the Board of Directors of ARBO since being elected in 2017. Dr. Ramsey has served one term as President 2021-2022, one as Vice President 2020-2021, and one as Secretary-Treasurer 2019-2020; and

WHEREAS, his service has been exemplified by sterling qualities of leadership which underlie his personal successes and those of the Association of Regulatory Boards of Optometry; and

WHEREAS, Dr. Coby Ramsey has given outstanding service through his volunteer leadership roles on the Wyoming Board of Examiners in Optometry, and in various other capacities; and

WHEREAS, the member boards of this Association wish formally to acknowledge Dr. Coby Ramsey's distinguished contributions to the Association; now, therefore be it

RESOLVED, that the Association of Regulatory Boards of Optometry, at this 103rd Annual Meeting, express its sincere appreciation to Dr. Coby Ramsey for his many years of distinguished service and outstanding contributions and bestow upon him the status of **Life Member** in this Association.

Approved by the ARBO House of Delegates, June 14, 2022

You Are ARBO!

By Dale Atkinson, Esq.

Established in 1919 as the International Board of Boards (IBB), your entity, now known as the Association of Regulatory Boards of Optometry (ARBO), is a not-for-profit association recognized as exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code. There is much to unpack from that opening sentence. You are a 103-year-old organization whose membership is comprised of regulatory boards of optometry and whose current mission is “to represent and assist member licensing agencies in regulating the practice of optometry for the public welfare.” The purpose of this article is to re-introduce the readers to your own organization. You are ARBO!

As emphasized during the 2022 Annual Meeting, ARBO is your organization. The “you” means regulatory boards from the United States, Canada, Australia, and New Zealand. ARBO member boards are created and delegated with the authority to carry out the intent of the legislature by regulating the practice of optometry in the interest of public protection. Based upon its mission statement and tax status, ARBO provides programs and services to its membership intended to lessen burdens on government optometry boards. These programs and services do not modify the authority of the member boards to enforce the practice act, but rather assist them in fulfilling these essential responsibilities. Perhaps most importantly, ARBO provides opportunities for the membership to gather and share collective wisdom related to regulatory perspectives and enhance effectiveness and efficiencies in the regulatory processes.

The “you” of ARBO provides opportunities to elect your Board of Directors that is “responsible for the management of the business and affairs of the Association in accordance with approved policy and within the budget established by the House of Delegates at its Annual Meeting.” Through their delegate representation, ARBO member boards introduce resolutions intended to provide big picture policy direction to the Board of Directors. Delegates engage in discussions, debate and voting on duly introduced motions at the Annual Meeting. The Annual Meeting also provides educational content to attendees for the benefit of regulation of the profession. As a reminder, ARBO is **not** a trade association and must be differentiated from the American Optometry Association and other trade groups that promote the profession and engage in activities that influence gov-

ernment. The notion of trade being involved with and determining regulatory issues implicates many legal and practical issues. ARBO membership and persons populating the member boards are regulators in those roles, not optometrists.

ARBO relies heavily upon volunteers in populating its Board of Directors, committees, and task forces in fulfilling its mission with an emphasis on government regulation of optometry. A hearty and sincere thanks is in order for these dedicated volunteers. Readers are encouraged to explore opportunities to volunteer and engage with ARBO and the member boards. Such engagement is a rewarding and enlightening experience.

ARBO has a rich history spanning over a century including creating and funding the National Board of Optometry (NBO) in 1951. ARBO and the NBO have a close relationship and work on overlapping and parallel tracks to ensure that the member boards have access to relevant programs. ARBO's longevity is a testament to the optometry regulatory community and the important role of regulation.

ARBO member boards not only need to know about ARBO, but also its programs and services. The acronyms of ARBO including COPE, CELMO, OE Tracker, the Greensheet, IBB, IAB and others make up the current and historical programs and services. These programs have been developed and implemented to lessen burdens on member boards related to the licensure, renewal and enforcement of the practice acts. All such programs respect the rights of government to ultimately determine licensure eligibility and other aspects related to practice. But these programs provide efficiencies and enhance effectiveness while promoting uniformity where possible. Keep an eye on CELMO related to important mobility and portability issues. The purpose of this article is not to describe in detail all the ARBO programs and services, but merely to re-introduce you to your organization. Readers can visit the website (www.arbo.org) to enhance your knowledge of the programs. There may be a test!

Continued and ongoing communication between ARBO and its 66 member boards is critical to ensuring knowledge and active participation in these opportunities to use current programs, assist in implementing new programs/services, and engage in content delivery. However, it is difficult to communicate with each individual member of the ARBO member boards and relevant staff.

You are ARBO! *(continued)*

Your organization encourages all member boards to include ARBO on every board meeting agenda to continuously introduce and re-introduce ARBO to members of member boards (who are subject to change) and staff and develop opportunities for ongoing training, regulatory content, and information exchange. You can make it happen!

Numerous other ARBO-like associations/federations exist and operate in a similar manner by providing programmatic opportunities and capitalizing on the collective wisdom of the regulatory membership. Like you as regulators that benefit from the collective opportunities provided by your organization, ARBO is not alone and takes full advantage of having access to these other like-minded entities. Similarly, you are

not alone as a member board or individual member of a member board. The opportunities are vast and may assist in addressing the perceived inefficiencies of government licensure and ultimately ensure that optometry continues to be treated as a regulated profession. As needed, invite ARBO representatives to your board meetings to provide updates on your organization. Let the collective voice be heard. See you around the regulatory quad.

Dale Atkinson is ARBO's Legal Counsel and a popular speaker at ARBO's annual meetings. Dale represents many other regulatory organizations in his legal practice The Atkinson Firm.

ARBO and NBEO Boards Meet

The ARBO and NBEO Boards of Directors met on August 14th in Minneapolis, Minnesota. Topics discussed included: the new Part III Patient Encounters and Performance Skills (PEPS) Exam; diversity, equity and inclusion initiatives; opportunities for the organizations with continued advancement of scope of practice; and license mobility.

ARBO attendees at the meeting included President, Dr. Coby Ramsey; Secretary-Treasurer, Dr. Ken Lawenda; ARBO Immediate Past President and NBEO Director, Dr. Patrick O'Neill; ARBO and NBEO Director, Dr. Jim Campbell; Directors Dr. Terri Haley, and Ms. Margaret Whelan; Consultant Dr. Donovan Crouch; and Executive Director, Ms. Lisa Fennell. NBEO attendees at the meeting included President, Dr. Susy Yu; Vice President, Dr. Karla Zadnik; Secretary-Treasurer, Dr. Michael Ohlson; Directors Dr. Joshua Baker and Dr. Lewis Reich; and Executive Director, Dr. Jill Bryant.



Members of the ARBO and NBEO Boards of Directors met in Minneapolis.

Start Making Plans for ARBO's 2023 Annual Meeting!

Mark Your Calendars for June 18-20 to attend the 2023 ARBO Annual Meeting!

The 104th ARBO Annual Meeting will take place in Alexandria, Virginia at the Hilton Alexandria Old Town. The Hilton is located in the historic Old Town Alexandria neighborhood. It is one of the most convenient hotels in Alexandria, Virginia, for business and leisure travelers visiting Washington, DC.

Explore two cities in one trip – Alexandria & Washington D.C. Located on vibrant King Street; it's just a quick stroll to enjoy the boutique shops, waterfront restaurants and unique architecture of Old Town Alexandria. The Hilton Alexandria Old Town also offers easy access to National Harbor and MGM Casino.



The Hilton Alexandria Old Town



Old Town Alexandria is full of restaurants, shops, and entertainment.



The DC metro, located across the street from the hotel, is an easy way to go sightseeing.



The Alexandria waterfront is full of activities and has water taxis to Georgetown and National Harbor.

More information and online registration will be available in early 2023.

We look forward to seeing you there!

COPE Research Posters Presented

Members of the COPE Governing Committee have spent a great deal of time this year doing research into whether CE format impacts learning outcomes. The committee worked with the American Academy of Optometry to compare the outcomes from the same CE course that was presented live, in-person, and again at a later date in a live webinar. The committee members have also done extensive literature searches to find published data on this topic, and they have consulted with the CE/CME accreditors in other healthcare professions to determine best practices in continuing education.

The research posters were presented at the Accreditation Council on Continuing Medical Education meeting in April 2022. Other posters on similar topics have been accepted for presentation at the American Academy of Optometry meeting in October 2022 and at the Alliance for Continuing Education in the Health Professions meeting in February 2023. The posters that were presented at the ACCME meeting are below. If you're planning to attend either of the upcoming meetings, please come and check out our posters!

Does Format Inform Quality? A Cases Analysis of In-Person vs. Live Webinar

Background

During the COVID-19 pandemic, a policy waiver by the Council on Optometric Practitioner Education (COPE) Governing Committee approved virtual synchronous CE as synonymous with "live" in-person CE. The ensuing 2 years has shown that synchronous virtual education has significantly matured. As the pandemic waivers ended as of January 1, 2022, COPE is now assessing if the quality of CE can be attributed to the format- in-person vs. virtual. To compare the two educational formats relative to learning outcomes, we assessed identical courses and speakers presented one month apart- one face-to-face and the other virtual/synchronous.

Research Project

Educational format is not a significant driver for quality in optometric continuing professional education. Despite this hypothesis, there is minimal data that compares the outcome measures between the two formats and therefore many state regulatory boards limit the number of CE hours optometrists are able to obtain in a virtual format. The American Academy of Optometry presented an in-person conference in November 2021. Forty-one courses were chosen as the "Best of Boston" and presented one month later in a virtual synchronous format utilizing the same speakers. The same assessment questions were asked of attendees following both formats of the same course. The overall course rating was compared between the two course formats. Attendees were asked to give the course an overall rating on a scale of 0 (poor) to 4 (excellent). In addition, attendees were queried on if their knowledge of the course subject improved after attending the course and were asked to submit the number one change they plan to make in practice.



In-person CE
November 3-6, 2021
1601 evaluations
Mean Course Rating: 3.72



Live Webinar CE
December 3-5, 2021
1330 evaluations
Mean Course Rating: 3.83

Results

The overall response rate for the live in-person courses was 21%, while the response rate for the live synchronous online courses was 40%. There is a significant association between the overall score a lecture receives in the in-person presentation and the response rate in the virtual synchronous presentation, suggesting that participants who would score the lecture low are instead not giving feedback in the virtual lecture, leading to a reduction of range. Based on these global measures we can conclude that while there are differences between the two measurement scales (Mean Ratings of the lectures: Live/Boston: Mean: 3.7 SD: 2.4, Online/Best of Boston: Mean: 3.8, SD: 1.2) they provide useful information about the quality of the lecture. There is an association between attendance and average score of similar magnitude for in-person and virtual, where less well attended sessions were rated on average lower than the larger lectures.

There is some suggestion that the differences in mean ratings might be hard to interpret, as the in-person responders are rating on a wider scale than the virtual responders, and the data suggest that virtual participants in a weak presentation are less likely to provide feedback.

In summary, although small differences surfaced between the two learning formats, our research shows that the synchronous virtual courses scored as well, if not better, than the in-person courses.

Acknowledgement: The authors would like to thank Gerhard Helleman, PhD for his work on the statistical analysis of the collected data.

Next Steps

Analysis of Outcome Measures Using Examination: Do post-course test scores differ between the online and in-person formats?
Compare Educational Format Between Different Learner Groups: Is a particular format preferred by one learner group compared to another?



Helen Viksnins, MEd, FAAO
Vice President, Education and Professional Relations
American Academy of Optometry

Caroline Pate, OD, FAAO
University of Alabama at Birmingham
School of Optometry

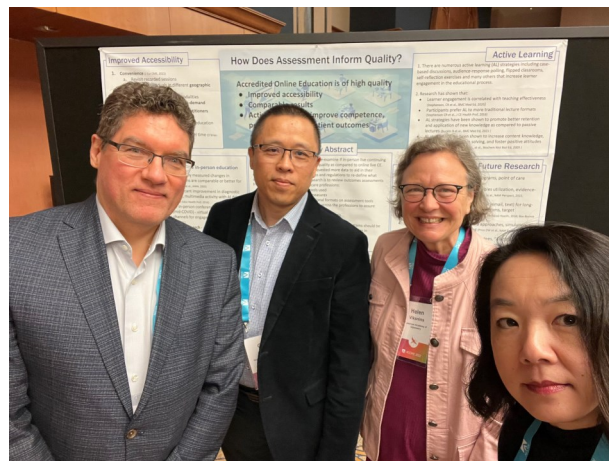
Brett Bence, OD, FAAO
Northwest Eye Surgeons

Luanne Chubb, OD, FAAO
Pennsylvania State Board of Optometry

Sierra Powell
Association of Regulatory Boards of Optometry



Dr. Michael Ohlson, Dr. Gary Chu, Helen Viksnins, and Dr. Susy Yu presenting their research poster at the ACCME meeting in April.



COPE Research Posters Presented

Improved Accessibility

1. Convenience (J Eur CME, 2022)
 - a. Revisit recorded sessions
 - b. Connect individuals in different geographic regions
 - c. Versatility of educational modalities
 - d. Searchable, accessible, and on-demand
2. Increased access to CME for busy practitioners (Emami et al., BMC Medical Education, 2020)
3. Provides an opportunity for equality in education (Emami et al., BMC Medical Education, 2020)
4. Removes barriers of expense and travel time (Orlowski et al., BMC Medical Education, 2022)

How does Assessment Inform Quality?

Accredited Online Education is of High Quality

- Improved Accessibility
- Comparable Results
- Active Learning to improve Competence, Performance, and Patient Outcomes

Active Learning

1. There are numerous active learning (AL) strategies including case-based discussions, audience-response polling, flipped classrooms, self-reflection exercises and many others that increase learner engagement in the educational process.
2. Research has shown that:
 - Learner engagement is correlated with teaching effectiveness (Stephenson, CE et al., BMC Med Ed, 2020)
 - Participants prefer AL to more traditional lecture formats (Stephenson CE et al., J CE Health Prof, 2016)
 - AL strategies have been shown to promote better retention and application of new knowledge as compared to passive lectures (Bucklin B et al., BMC Med Ed, 2021)
 - AL strategies have been shown to increase content knowledge, critical thinking, problem solving, and foster positive attitudes toward learning (Anderson WL, et al., Biochem Mol Biol Ed, 2005)

Summary Abstract

Comparable Results

Interactive distance learning >= live in-person education

Randomized controlled trial - objectively measured changes in behavior and sustained knowledge gains are comparable or better for online CME than live activities (Fordis M et al., JAMA, 2005)

1. Convenience sampling - significant improvement in diagnostic accuracy using web-delivered, multimedia activity with AI driven simulator (Mohammed P et al., J Contin Educ Health Prof, 2020)
2. Sequential comparison of in-person conference (pre-COVID) and virtual conference (mid-COVID) - virtual format provided better access, multiple channels for engagement, more focused discussion (Ball J et al., J Eur CME, 2021)
3. Statistical analysis of literature search - online activities (interactive text-based, multimedia) were comparable to live events (lectures, workshops) and more effective than enduring activities (print, audio) (Gallies GD et al., J Contin Educ Health Prof, 2021)

The pandemic has forced Optometry to re-examine if in-person live continuing education (CE) is of higher educational quality as compared to online live. Many optometry state boards have requested more data to aid in their decisions to change their state statutes and regulations to re-define what accounts for live CE. This literature search is to review outcomes assessments from accredited CME across healthcare professions:

1. Types of assessment tools used
2. Impacts on outcomes measures
3. Considerations of educational formats on assessment tools
4. The alignment of education across the professions to assure competencies
5. Standardized outcomes evaluation tools
6. Outcomes framework

Evaluation and assessment of outcomes measures of CE programs should be the driver to determine quality. This project will assess: differences in outcomes assessment tools used across healthcare professions, differences between in-person live and interactive virtual continuing education

Future Research

1. Broaden Delivery: Self-assessment programs, point of care learning (Price DW et al., NAM Perspect, 2021)
2. Use of Learning Theory: Learning principles utilization, evidence-based design ("learning literacy") (Price DW et al., NAM Perspect, 2021; Hofstadter-Thalmann E et al., J Eur CME, 2022)
3. Emphasis on Outcomes: Spaced-repetition (email, text) for long-term learning, commitment to change programs, target audiences (White J et al., Pharm Pract 2020; Gil CJ et al., BMJ Glob Health, 2018; Bos-Bornie LH et al., BMC Fam Pract, 2017)
4. Utilize Practice/Feedback: Multimedia approaches, simulation centers, artificial intelligence tutoring (Price DW et al., NAM Perspect, 2021; Mohammed P et al., J Contin Educ Health Prof, 2020)
5. Broaden Audience: Non-traditional attendees, "all-clinician" competency (Hofstadter-Thalmann E et al., J Eur CME, 2022; Nolan IT et al., J Med Ed Curric Dev, 2020)



Kenneth Lawenda, OD
ARBO Board of Directors

Gary Chu, OD, MPH, FAAO
New England College of Optometry

Michael Ohlson, OD, FAAO
Avera Marshall Southwest Ophthalmology
Avera Marshall Regional Medical Center

Richard Madonna, OD, MA, FAAO
State University of New York
College of Optometry

Susy Yu, OD, MBA, FAAO
Southern California Permanente Medical Group
Kaiser Permanente



Dr. Gary Chu; Helen Viksnins; Dr. Steve Singer, ACCME Vice President for Education and Outreach; Dr. Michael Ohlson; Sierra Powell; and Dr. Susy Yu at the ACCME meeting.



Dr. Susy Yu; Kate Regnier, ACCME Vice President; Dr. Graham McMahon, ACCME President and CEO; and Dr. Michael Ohlson at the ACCME meeting.



New *OE TRACKER* Member Dashboard



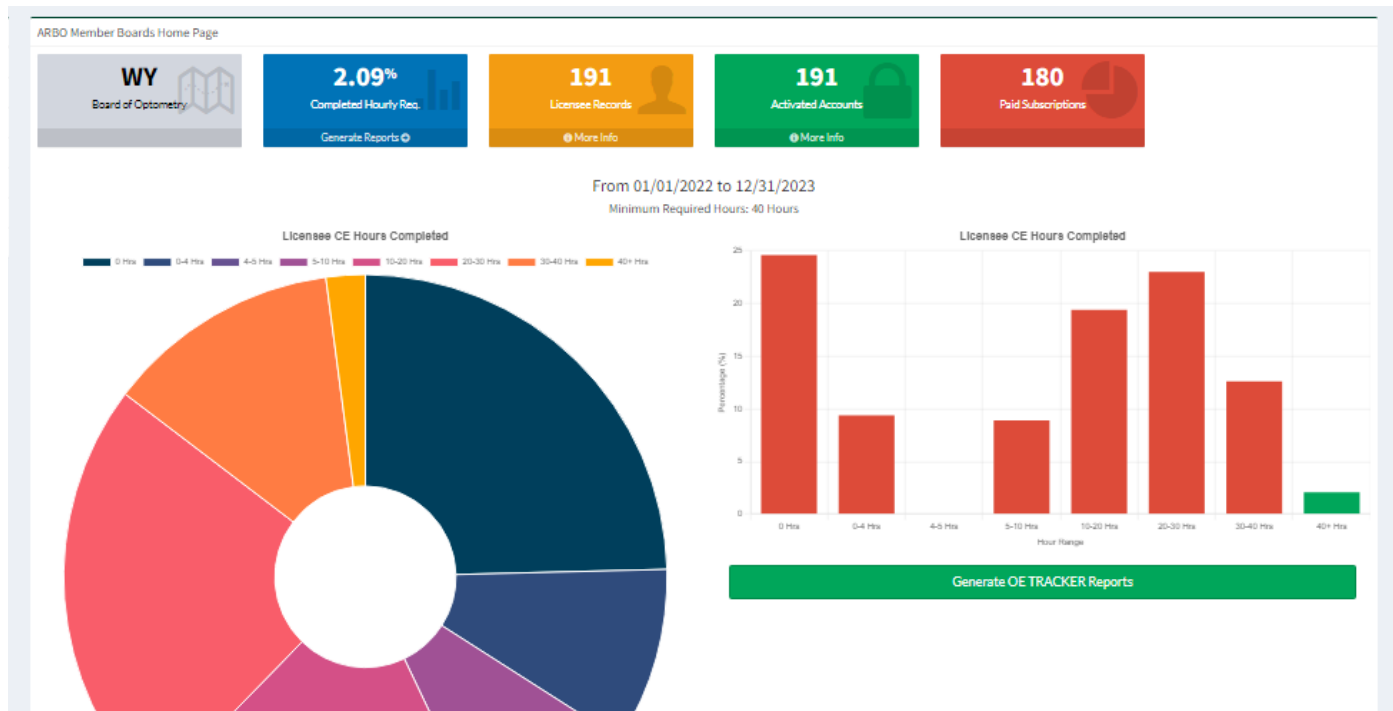
As a member of ARBO, if you have logged into your member board account on our website recently, you may have noticed some major changes. We have added some great new features, including a dashboard that conveniently breaks down key information about the licenses in your jurisdiction who are registered in *OE TRACKER*.

At a glance, you will find information such as the number of licensee records on file, licensees with activated accounts, those with paid subscriptions, and the percentage of your licensees that have completed the hourly CE requirements for the current licensing period. You can also view graphs illustrating the number and percentage of CE hours your licensees have completed in

the current renewal cycle.

In addition to the new features, you will still have the ability to validate certificates, look up *OE TRACKER* numbers, and run reports on your licensees. This includes custom and detailed reports that aid in the auditing process. Utilizing *OE TRACKER* for auditing purposes can significantly cut down on paperwork for your staff, as our collection of CE attendance data is stored electronically.

ARBO also proudly offers full-service auditing to our members. If you don't know the username and password for your member board account or if you'd like more information about ARBO's auditing service please contact our office.



OE TRACKER Attendance Reports

Welcome Wyoming Board of Optometry

Summary Report of Licensees
Get a summary report of licensees with the total number of CE credits in OE TRACKER

Detailed Report of Licensees
Get a detailed report of licensees CE attendance information in OE TRACKER

Report of Licensees with No Credits
Get a report of licensees who have no CE credits in OE TRACKER

Detailed Report for One Licensee
Search for detailed CE attendance records for one licensee in OE TRACKER

Detailed CE Analysis for One Licensee
View CE Analysis for One Licensee

The new *OE TRACKER* member dashboard is dynamic and the data will change daily as your licensees add CE credits to their *OE TRACKER* accounts.

There are 4 standard reports that you can run or you can run a detailed analysis of one licensee's progress towards meeting your jurisdiction's CE requirements.

COPE Introduces Standards for Integrity and Independence in Accredited Continuing Education

In a continued effort to assure both quality and independence of optometric continuing education, COPE recently adopted the Accreditation Council on Continuing Medical Education's (ACCME) new Standards for Integrity and Independence in Accredited Continuing Education (SII). COPE joins several other accrediting organizations for healthcare professions that have also adopted the Standards including:

- Accreditation Council for Continuing Medical Education (ACCME)
- Accreditation Council for Pharmacy Education (ACPE)
- American Academy of Family Physicians (AAFP)
- American Academy of PAs (AAPA)
- American Nurses Credentialing Center (ANCC)
- American Osteopathic Association (AOA)
- Joint Accreditation for Interprofessional Continuing Education

COPE first adopted the ACCME Standards for Commercial Support (SCS) in 2010 and the Standards for Integrity and Independence are an updated and modernized version of the SCS that include some terminology updates and provide clear, streamlined instructions for the following areas:

- **Standard 1:** Ensure Content is Valid
- **Standard 2:** Prevent Commercial Bias and Marketing in Accredited Continuing Education
- **Standard 3:** Identify, Mitigate, and Disclose Relevant Financial Relationships
- **Standard 4:** Manage Commercial Support Appropriately
- **Standard 5:** Manage Ancillary Activities Offered in Conjunction with Accredited Continuing Education

The COPE SII went into effect July 1, 2022. Though the changes are minimal, COPE began to prepare CE Administrators/Providers for a smooth transition to the new SII in early 2022. Two virtual workshops were presented in the Spring and a webpage dedicated to COPE's SII is available on ARBO's website: www.arbo.org/new-standards-integrity.

The webpage houses helpful documents including a Getting Started Checklist, toolkit of important documents, an extensive FAQ and updated forms that are required for COPE accreditation. An archived video recording of COPE's SII workshop is also available for CE Administrators/Providers to view at their convenience.

If you have any questions regarding the COPE SII, please reach out to Sierra Powell, Manager of Accreditation Services, at spowell@arbo.org.

ARBO's CE Auditing Service for Member Boards



ARBO has a benefit for member boards that you may not be aware of: CE auditing services using *OE TRACKER*. Member boards have been able to utilize various auditing reports generated from *OE TRACKER* for many years. Now, ARBO is going a step further and will complete the audit process for you. This comes after numerous member boards have shown increasing interest in completing more extensive audits, but have expressed concern about internal resources and the time it takes to complete an audit.

Included in ARBO's auditing services are a verification of jurisdictional CE requirements and review of the CE hours earned by each licensee/registrant to determine if

the requirements for license renewal are met. ARBO is also able to send deficiency notices to licensees/registrants that are not in compliance, if desired. Member boards who are already utilizing ARBO's auditing services include the Tennessee Board of Optometry, Louisiana State Board of Optometry, and College of Optometrists of Ontario.

Fees for ARBO's auditing service will vary depending on your jurisdiction's CE requirements, number of licensees/registrants and percentage being audited.

If you or your board is interested in learning more about ARBO's auditing service, please contact Lisa Fennell at lfennell@arbo.org.

NBEO Laser and Surgical Procedures Exam (LSPE)

Laser and Surgical Procedures Examination

After years of planning and development, the Laser and Surgical Procedures Examination (LSPE®) launched in the fall of 2019 by the National Board of Examiners in Optometry. The exam is administered at the state-of-the-art National Center of Clinical Testing in Optometry (NCCTO®), located in Charlotte, North Carolina.

LSPE is the only nationally standardized examination of its kind, measuring competency in laser and surgical skills, decision-making, and patient management. It is a stand-alone, elective examination containing both a laser and surgical section. Each of these sections include performance of clinical skills and computer-based multiple-choice items.

LSPE was designed as a metric for state boards of optometry to measure competency in laser and surgical skills. With scope of practice in optometry expanding, LSPE provides an opportunity for candidates to assess their cognitive ability to appropriately manage and perform certain laser and surgical procedures.

Registration is open to 4th year optometric students, optometric residents, and optometric practitioners. Candidates may register to take the LSPE in its entirety or have the option to take the laser or surgical sections separately as needed. Registration is currently open. If you are interested, please contact us at nbeo@optometry.org.

An outline of the content included on the LSPE is below:

**Skills:**

Selective laser trabeculoplasty
Peripheral iridotomy
YAG capsulotomy
Suturing
Chalazion excision

Multiple-choice:

Selective laser trabeculoplasty
Peripheral iridotomy
YAG capsulotomy
Suturing
Eyelid surgery Injections
Ocular anesthesia

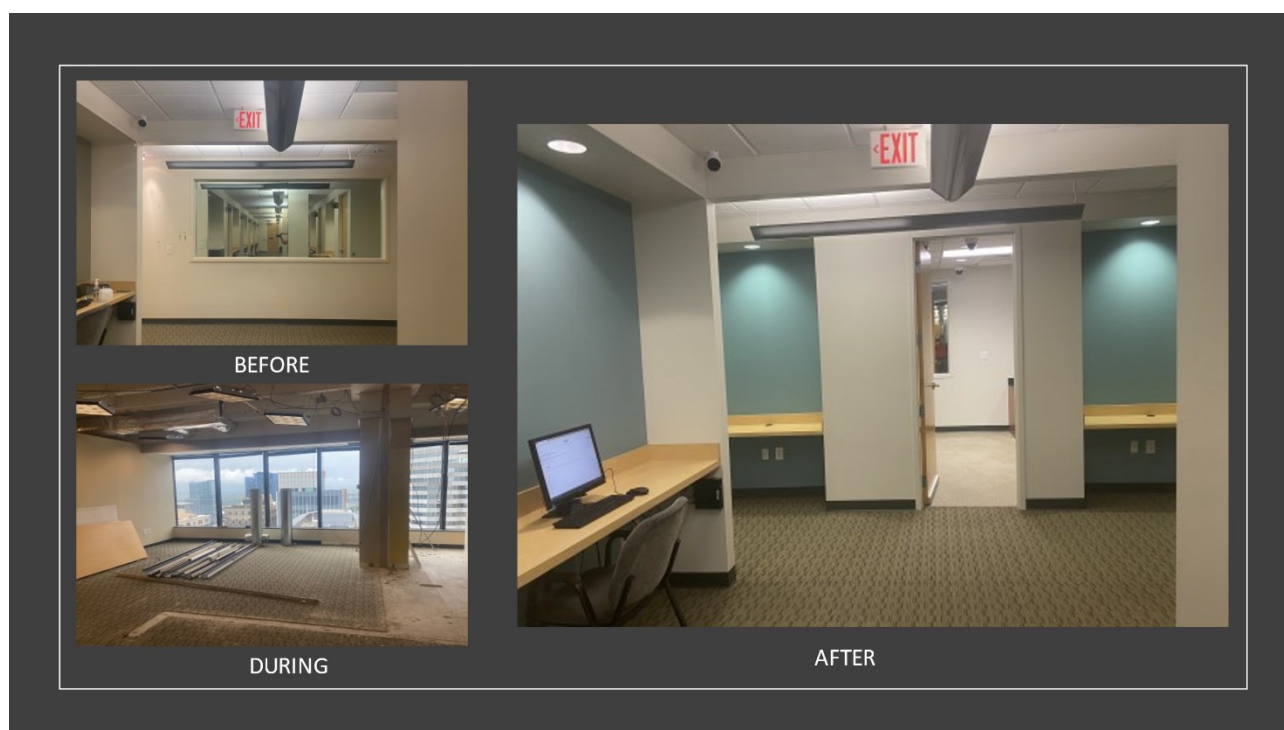
More information can be found on the NBEO website, <https://www.optometry.org/>.

NBEO New Part III Exam

Part III Restructure: Patient Encounters and Performance Skills (PEPS™) Examination

Consistent progress is continuing in the development of PEPS, the new Part III examination. This new exam will complement the Part I ABS® and Part II PAM® exams in assessing a candidate's competency for initial licensure for the independent practice of optometry. We are currently focused on creation of the software platform for the examination and case scenario development.

This summer NBEO completed a construction project to create enough examination lanes for the PEPS examination. This is important in allowing us to move into our next phase of pilot testing. Please see the below images of our recently completed construction.



NBEO is actively seeking scenario authors to write clinical cases for the PEPS exam. Those interested in this unique opportunity can contact us at nbeo@optometry.org.

For more information, you can visit our website, <https://www.optometry.org/>. We will continue to share announcements as PEPS development continues.



Become One of a Select Few!

As a regulatory board member and an optometrist, please consider becoming a reviewer of courses submitted for COPE accreditation. The time you spend contributing to the COPE review process will help ensure the quality and independence of continuing education. COPE accreditation benefits both practitioners in your jurisdiction as well as the public that we serve.

What do I need to do to become certified?

- You must complete and submit a course reviewer questionnaire.
- You must be endorsed by your optometry licensing Board; this endorsement will be secured by ARBO once you volunteer.
- You will be asked to complete COPE reviewer training.
- Once the training has been successfully completed, you will receive your congratulatory packet of information, including a certificate suitable for framing and a lapel pin.

How much time will this take from my already busy schedule?

- COPE reviewers are not requested to review more than two courses at any given time.
- The review of a course typically takes about 30 minutes.

Please consider volunteering and contributing to the COPE review process!

For more information please visit our website at www.arbo.org and click on COPE, then click on "COPE Reviewers" and "Become a Reviewer" or send an email to arbo@arbo.org.

ARBO BOARD OF DIRECTORS— OFFICERS:

President—Coby Ramsey, OD
 Vice President—Jeffery Yunker, OD
 Secretary-Treasurer—Kenneth Lawenda, OD
 Immediate Past President—Patrick O'Neill, OD, FAAO

DIRECTORS:

James Campbell, OD
 Terri Haley, OD
 Glenn Kawaguchi, OD
 Margaret Whelan, MPA
 Donovan Crouch, OD, Consultant

ARBO STAFF—

Lisa Fennell, Executive Director
 Kalimah Bayne, Program Coordinator
 Ron Cassel, Director of Operations
 Hope Cole, Program Coordinator
 Donna DeLay, Program Manager/COPE Administrator
 Brittany Howard, MBA, Program Coordinator
 Jessi McVean, Customer Service Manager
 Sierra Powell, Manager, Accreditation Services
 Audrey Vazquez, Program Coordinator



ARBO
 3440 Toringdon Way
 Suite 205, PMB 20533
 Charlotte, NC 28277
 Phone: 704-970-2710
 Fax: 888-703-4848
 Email: arbo@arbo.org
www.arbo.org