

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

January 26, 2023

1. **Roll Call, Call to Order, Welcome, Introductions.** President Mariah Smith, O.D. opened the Zoom meeting at 6:33p.m. President Mariah Smith, O.D., Vice President Jeff Austin, O.D., Board Members Stephanie Lee, O.D., and Public Member Drew Johnson also were in attendance, as were staff members Executive Director Caren C. Jenkins, and Board Counsel Rosalie Bordelove, Esq. Public attendees included Ken Kopolow, O.D, Steve Girisgen, O.D., Howard Fried, O.D. of DigitalOptometrics, and Joe Neville of the NAOO.
2. **Public Comment.** Caren C. Jenkins directed the Board members to the written public comments included with the meeting materials. Steve Girisgen, O.D. asked a copy of the public comments submitted. Director Jenkins agreed to forward those materials.
 - **WORK SESSION. Open discussion of the Board's Proposed Bill Draft Request with specific information regarding its general terms and discussion of telemedicine as it applies to optometry.**
 - Board Member Stephanie Lee, O.D. reported that, according to the American Optometric Association, in-person examinations are the gold standard, and she believes anything less than that is a compromised exam. She suggested that a telehealth exam should be considered a wellness exam as opposed to a comprehensive exam because of the optometrist's inability to see the eye in person. She agreed that a telehealth wellness exam makes sense for rural patients with limited access to optometrists and such exams should be accessible for certain regions of the state, duplicating the Board's Mobile Optometry practice limitations. She later proposed that the optometrist should be required to inform patients in writing of the limitations of remote eye exams and provide contact information for a follow-up in case of an emergency. She reiterated the importance of the remote treating optometrist being licensed in Nevada to examine or treat any patients in Nevada.

- Jeff Austin, O.D. agreed that telehealth may offer a valuable service to address unmet needs in rural Nevada, and that it should not be offered in urban areas of the state where gold standard care (a comprehensive eye exam) is available. He proposed a geographic limitation for telehealth to rural areas. He opined that the current imaging for telehealth is not the same quality as an in-person exam. He offered that a disclaimer should be required for under 12 or over 60 years of age should not receive telehealth as well as those who have been diagnosed with a disease. He agreed that the optometrist must have an office or refer patients to where there is in-person care readily available. His concern is that the Nevada licensed optometrists outside of Nevada may not be familiar with local optometrists if a referral is required.
- Ken Kopolow, O.D. asked and President Mariah Smith, O.D. responded that states that currently allow for telehealth had no geographic limitations. He also asked what opposition should be expected. After further discussion he expressed his concern for insurance companies dictating labs, optical referrals, and other mandates to optometrists.
- Drew Johnson indicated that opposition to the bill comes from young and healthy patients who are not affluent and do not need or want a full eye exam, who only require a new prescription and cannot necessarily afford a comprehensive eye exam. He expressed later that no geographical limitation should apply. He disagreed with the need to limit telehealth to rural regions. His recommendation is to replicate the telehealth laws in other states. In further discussion Johnson abandoned his desire to remove all geographic limits and conceded to a trial 2-year period with telehealth only to rural areas. However, he proposed that if the Board receives no valid complaints, the rural limitation should be automatically lifted.
- Steve Girisgen, O.D., Ken Kopolow, O.D. and Jeff Austin, O.D. rebutted Mr. Johnson's belief that there would be any cost savings to the patient of a telehealth examination as opposed to an in-person exam. Dr. Fried of DigitalOptometrics affirmed that the cost to an optometrist is based on patient volume and that the equipment used for a telehealth exam is generally the same as an in-person exam.
- Howard Fried, O.D. argued that statements made that telehealth is inferior care are an unfair generalization, since the members had not done due diligence on the platforms offered. He commented that over 40 states have no restrictions on telehealth and rely on the professional discretion of the optometrist.

- President Mariah Smith, O.D. expressed her positive experience with imaging by the DigitalOptometrics telehealth platform equipment (demonstrated at the ARBO meeting) comparing the images and finding them far better than some of the in-person exams being performed by certain optometrists in Nevada. She also proposed a limitation to patients in medically underserved regions, those who are geographically remote, and people with transportation issues as defined in the current Mobile Optometry laws. She rejected the wellness exam description as it could be interpreted as less than a comprehensive exam and may not be covered by patient's insurance. She proposed a hybrid option for telehealth where the optometrist must have a physical Nevada office to provide in-person care if necessary. In her opinion telehealth will help optometrists who want or need to step back from an in-office setting, but who still want to provide optometry services to their patients. She proposed that telehealth be offered in the rural areas for 2 years and if there are no complaints lodged that require discipline then it should be opened up to all of Nevada.
- Caren C. Jenkins suggested that telehealth should be available statewide. She offered that the Board could manage certain details regarding telehealth in the regulations if the concepts appear in statute. If telehealth is limited to rural only, it may appear that sub-standard care is available to the rural population, and that the legislature and the Board have relegated those residents to less than quality care.

3. Consideration and final approval of the Board's general request for a bill draft including telemedicine in optometry and any adjustments to be made following stakeholder Work Session or other input received. After much deliberation Jeff Austin, O.D. made a motion to remove doctor-remote telehealth language from the BDR but retain the rest of the BDR as described. Stephanie Lee, O.D. seconded the motion. Drew Johnson voiced his frustration with the Board for not having this open discussion in the previous Board meeting. He said that his role as a public member is to advocate for public access and watch that the Board members and others do not advantage themselves over competition. He expressed his concern about a seemingly inappropriate agreement made to re-open this agenda item.

Jeff Austin, O.D. thanked Mr. Johnson for his concern, and acknowledged his frustration but stated that as a public Board member who is not a doctor, Mr. Johnson does not understand the potential effect of telehealth on medical eye care. President Mariah Smith, O.D. asked Caren Jenkins regarding whether the motion would carry if she abstained. Caren Jenkins stated that avoiding a vote is not performing their job as a Board member, and that having an opinion and voting is the role of a Board member. She explained that unless the Board member has a conflict of interest because they have a pecuniary interest in the outcome or other legitimate conflict the member should participate in the vote. Stephanie Lee, O.D., Jeff Austin, O.D. and Mariah Smith, O.D. voted aye, Drew Johnson voted nay. The motion passed.

4. Public Comment. No public comment was offered.

5. **Adjournment.** Drew Johnson made a motion to adjourn. Jeff Austin, O.D. seconded the motion. Motion carried unanimously. The meeting adjourned at 9:39 p.m.

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FY 2023 Regular meeting schedule

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

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These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on February 23, 2023.



Caren C. Jenkins, Executive Director