

NEVADA STATE BOARD OF OPTOMETRY



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Materials for

November 28, 2023

Board Meeting

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NEVADA STATE BOARD OF OPTOMETRY



NOTICE OF PUBLIC MEETING

The Nevada State Board of Optometry will hold a Board meeting via Zoom on
Tuesday, November 28, 2023, beginning at 6:30 pm PST

Zoom Meeting

<https://us06web.zoom.us/j/85368503196?pwd=MmJNTzArWmV4SGxEeGJzZXVObDB2dz09>

Meeting ID: 853 6850 3196

Passcode: 958274

Telephone access: 669-444-9171

Find your local number: <https://us06web.zoom.us/j/85368503196?pwd=MmJNTzArWmV4SGxEeGJzZXVObDB2dz09>

The public is invited to attend

AGENDA

NOTE: This is the tentative schedule for the meeting. The Board reserves the right to take items in a different order to accomplish business in the most efficient manner. Items on this agenda may be taken out of order, removed, combined, or delay the discussion relating to an item on the agenda at any time. An asterisk (*) next to an item indicates that action may be taken at this meeting.

1. **Call to Order**, Roll Call, welcome, introductions.
2. **AB 219 Compliance**- The following will be read into the record- in compliance with AB 219, because this meeting is being held using a remote technology system pursuant to NRS 241.023 and does not have a physical location designated for the meeting where members of the general public are permitted to attend and participate, the telephone call-in number for this meeting is 669-444-9171, meeting ID 853 6850 3196, Passcode 958274.
3. **Public Comment**. No action will be taken at this meeting on any issues presented in Public Comment. Comments are limited to 3 minutes.
4. ***For Possible Action**. NRS/NAC clarification re ownership of records per R066-19 Section 10.
5. ***For Possible Action**. Complaint 23-01 investigation status, NRS/NAC clarification re prohibition on influence over professional judgment of optometrist unless licensed to practice optometry per NRS 636.373(4), R066-19 Section 12(4)

6. ***For Possible Action.** NRS/NAC clarification re leasing/subleasing/separation of businesses per NRS 636.372, NAC 636.240, NAC 636.250.
7. ***For Possible Action.** Complaint 22-09 investigation status, possible adjudication
8. ***For Possible Action.** FY2022-2023 Audit
9. Executive Director updates re status of termination of Thentia purported contract
10. ***For Possible Action.** Consideration of Agency Budget with review for transition to Administrative Collaborative office in Reno, NV and termination of lease at present physical location
11. ***For Possible Action.** Consideration and approval of September 20, 2023 Board Meeting Minutes.
12. ***For Possible Action.** Consideration and approval of October 26, 2023 Board Meeting Minutes.
13. **Public Comment.** No action will be taken at this meeting on any issue presented in Public Comment. Comments are limited to 3 minutes.
14. ***For Possible Action.** Adjournment

* * * * *

FY 2023-2024 Regular meeting schedule

Thurs. January 24, 2024, 8:00 a.m.- NAC 636 Workshop in-person at Nevada State Business Center
3300 W. Sahara Ave., Red Rock Room, 4th Floor, Suite 440, Las Vegas, NV. 89102

* * * * *

❖ 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>

Materials for Agenda Item

No. 4

Relevant law

R066-19 Section 10 (yet-to-be codified NAC 636):

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

NAC 636.240:

Except as otherwise provided in NRS 636.347, an agreement between a licensee and a person who is not licensed pursuant to the provisions of chapter 636 of NRS for the leasing of a building or a part thereof for use in the licensee's practice must not include a provision that:

...

3. Authorizes the person who is not licensed to have access to the medical records of the licensee's patients.

...

5. Prohibits the licensee from having access to his or her office, equipment or records at any time.

Questions:

Is there any scenario in which a professional corporation, or entity of any kind (regardless of shareholder status), could lay claim to ownership of patient records?

If the answer is no, then what would be the remedy to allow an individual OD to regain access and communication to the patient medical records?

If an agreement or contract has the ownership of the medical records with anyone or any entity that is not the individual OD, is the agreement not legal and considered null and void?

Board Policy no. 2 states that NRS 636.370 and this policy require each licensed optometrist to notify *the Board* of any change of a location of his or her practice, but no mention of how to notify the OD's patients. Does the Board have a policy when the situation is another OD or professional corporation purchases the practice? Is that for the lawyers to include in the purchase agreement?

Materials for Agenda Item

No. 5

Relevant law

NRS 636.373(4)

4. A person, including an officer, employee or agent of any commercial or mercantile establishment, shall not directly or indirectly control, dictate or influence the professional judgment of the practice of optometry by a licensed optometrist, unless the person is licensed to practice optometry pursuant to this chapter.

R066-19 Section 12 (yet-to-be codified NAC 636):

4. An optometrist who forms an association or other business relationship with a person who is not licensed to practice optometry pursuant to subsection 3 shall:

- (a) Comply with any applicable requirements of the Internal Revenue Service;
- (b) Maintain organizational and financial independence from the person who is not licensed to practice optometry and ensure that the person who is not licensed to practice optometry is not involved in:
 - (1) Clinical decisions;
 - (2) Scheduling of patients;
 - (3) Any decision concerning scope of practice or use of facilities, equipment or drugs; or
 - (4) Any other decision concerning the provision of care to a patient or the outcome of any treatment or other service provided to a patient; and
- (c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship.

7/15/2023

To: Nevada State Board of Optometry

From:

Area Optometrists

Evan R. Marchant, O.D.

Troy M. Humphreys, O.D.

Cori Cooper, O.D

Denis M. Humphreys, O.D.

Becky Humphreys, O.D.

Tonya Hubbard, O.D.

Katrina Braganza, O.D.

Colin Kinjo, O.D.

Employed by Rowan Optometry, PC.

Providing optometric services to the following 2 offices owned by VSP Ventures:

Family Eyecare Associates

1965 Baring Boulevard

Sparks, NV 89434

Family Eyecare Associates

18601 Wedge Parkway, Suite 2C

Reno, NV 89511

Dear State Board of Optometry;

On 12/31/2020 we sold our practice, Family Eyecare Associates, to VSP Ventures. They took over the running of the business of the practice as of 1/1/2021. We were then employed by Rowan Optometry, a professional corporation (PC) of optometrists who provide optometric services to our two former offices listed above.

We are writing to lodge a formal complaint against VSP Ventures and to get guidance from the State Board regarding the following issues:

Issue #1: Doctor control of their clinical schedule

As of 4/1/2023, there was an attempt by the VSP Ventures staff to take away the control of the scheduling of patients from the doctors and take that responsibility upon themselves. In fact, the rights of the doctors to control their schedules were removed within the electronic health records (EHR) software.

This removal of our rights to control our patient schedules was resisted strongly by us as optometrists and Dr. Marchant was successful in regaining rights to scheduling patients. Though

currently, the other doctors rights in the software to control patient scheduling have not been restored.

VSP Ventures/Family Eyecare Associates are planning an update to the EHR software next month and Dr. Marchant was told by the field manager of VSP Ventures that the doctors would not have access in the software to control patient scheduling and that this would be handled exclusively by the staff of VSP Ventures, not the PC of optometrists.

We contend that not allowing complete access to scheduling our patients as we see fit is a violation of our understanding of Nevada State law (NRS 636.373, paragraph 3 which reads, "A person shall not directly or indirectly supervise an optometrist within the scope of his or her practice of optometry unless the person is licensed to practice optometry pursuant to this chapter." We contend that we should have complete access to the EHR software as it relates to scheduling patients for patient care.

We also contend that the patient clinical records are the property of the optometrists, not that of VSP Ventures.

We seek the opinion of the State Board regarding this issue so that both we as employees of the Optometric PC and the staff of VSP Ventures can proceed moving forward in accordance with the laws of the State of Nevada.

Issue #2: Staffing of the Family Eyecare Clinics

The staffing of the clinic is handled by VSP Ventures and those whom they employ. In April, five employees were laid off from the Family Eyecare practices by VSP Ventures. VSP Ventures said we were over staffed and it necessitated a "reduction in force" to meet some kind of guidelines that they had.

Two of the employees that were laid off were patient care coordinators who helped to answer our phones, schedule patients, and other office functions related to insurance verifications, etc. This has left us woefully short on staff to properly answer our phones. Since that lay off, we have had hundreds of patients complain that they are unable to get through to us over the phone. They complain that the phone rings and rings with no answer. They complain that they get a voice mail message asking them to leave a message and then that no one ever calls them back in response to the message they leave. They complain that they receive a message that the voice mail box is full and that they are unable to leave a message, this after no one answered their call to begin with.

More seriously, they complain that they were calling with an urgent eye care need and had no way to let us know so that we can respond to possibly sight threatening eye problems in a timely basis. Some of these patients, having been unsuccessful reaching us by phone, have just driven in to the office and presented in person to have their concerns addressed. This is not proper practice as it relates to the practice of optometry and is quite concerning as it relates to sight threatening problems. We know many others have delayed care or sought it elsewhere.

At the outset of this “reduction in force” we let the powers that be that know that this was unacceptable and would result in poor and inadequate patient care. They, VSP Ventures, would not bend on this issue. Since this time in meetings with VSP field managers face to face we have passed on these patient complaints and have requested we hire back the 2 needed patient care coordinators. This request was denied by the Ventures field managers.

Dr. Marchant later met over video call with the Vice President of VSP Ventures, Becky Fritz and the regional director, Elayna Wichert, 2 months ago expressing the same concerns and same recommendations. Again no action to rectify the problem.

Just a week ago Friday, Dr. Marchant met with the president of VSP Ventures, Kathleen Steele and again with Vice President Fritz. Once again he passed on the hundreds of patient complaints regarding the terrible phone service and the concerns this raises in patient care especially as it relates to handling urgent and potentially sight threatening concerns of our patients. In addition to the in person conversations, emails were sent to the Ventures leaders explaining the concerns in more detail. Once again, the top leaders of VSP Ventures refused to rectify this situation by authorizing the hiring of the needed staff and said that they would send someone out in the months to come to teach the staff to be “more efficient”.

Two of the employees that were laid off were clinical technicians trained to do both special testing as it relates to glaucoma and AMD care. Because of this “reduction in force” we have had to put off special testing (glaucoma care, AMD care, and the like) for lack of staff to administer these tests.

One of techs laid off was our tech trained especially in contact lens related care. We fit a lot of specialty contact lenses and this person was trained in training these special patients in the care and handling of scleral and other specialty lenses. Our contact lens portion of the clinic has also suffered without the needed trained staff to handle this care requiring the doctors to pick up and handle this care as we work to get staff trained to handle this important part of our practice.

We now have staff trained that can provide most of the special testing but when they are doing these tests they are pulled out of the regular pre-testing process causing the clinic to back up and patient care suffers and patients wait too long to be taken back for their appointments. We have yet to get any staff up to speed in the specialty contact lens portion of the practice and the doctors themselves continue to provide this care which makes it difficult to keep up with the patient flow of a busy practice.

Once again, these concerns were expressed at the time this “reduction in force” happened and several times since then to our office manager, VSP Ventures field managers and in the conversations Dr. Marchant had with both the president and vice president of VSP Ventures. They again refuse to rectify the problem by hiring the needed staff and insist we just need to be more efficient (while patient care suffers).

We contend that not hiring sufficient staff to provide proper patient care is in violation of Nevada State law as not having sufficient staff directly influences our ability to practice optometry and properly serve the needs of our patients.

Please reference NRS 636.373, paragraph 4; "A person, including an officer, employee, or agent of any commercial or mercantile establishment, shall not directly or indirectly control, dictate or influence the professional judgment of the practice of optometry by a licensed optometrist, unless that person is licensed to practice optometry pursuant to this chapter."

We seek guidance from the state board regarding the two issues explained above and look forward to your interpretation of Nevada State law relative to our concerns and our patient's concerns. We hope that this guidance may be useful to other area optometrists working in other Ventures owned practices in Nevada as well.

Sincerely,

Evan R. Marchant, O.D
Troy M. Humphreys, O.D
Cori Cooper, O.D
Denis M. Humphreys, O.D (retired)
Becky Humphreys, O.D.
Tonya Hubbard, O.D.
Katrina Braganza, O.D.
Colin Kinjo, O.D.

November 14, 2023

NEVADA STATE BOARD OF OPTOMETRY

POB 1824, CARSON CITY, NV 89705

I am writing to wholeheartedly agree with an earlier complaint written by Dr. Evan Marchant (and all doctors from Family Eyecare Associates) this year against VSP Ventures.

As I read the Nevada optometry regulation, NAC 636.373, section 12, paragraph 4, subsection (b) which states that "Maintain organizational and financial independence from the person who is not licensed to practice optometry, and ensure that the person who is not licensed to practice, optometry, is not involved in:

- (1) Clinical decisions;
- (2) Scheduling of patients;

Issue #1 Scheduling of patients: Again and again VSP Ventures inserts itself into optometrists' decisions. The most flagrant is the changing of our schedules. As Dr. Marchant noted, in April 2023 VSP Ventures took away control of patient scheduling from the doctors and gave it to themselves via EHR software rights. The only doctor able to regain his rights was Dr. Marchant.

When VSP Ventures updated their EHR in Family Eyecare Associates in October 2022 there were no "templates" for any schedule but we were also told again we would not have access to make templates or control our own patient scheduling.

Now November 2023, VSP Ventures has again updated its EHR software and hardware. With this change, we were told our schedules would change to 20 minute back to back appointments. No choices in what types of appointments – just one after the other. Again, we argued for access and were denied. We argued that kind of schedule is not feasible for all of the doctors at Family Eyecare Associates. The staffing will not allow it, the office space will not allow it, the doctor's styles will not allow it etc.. VSP Ventures said you could extend one or two appointments to help with the tight schedule. I did this. The appointment times were immediately decreased back in size and more appointments added back to the schedule. On top of this, staff were told they can accept walk in appointments and double book appointments. Again, this is what I believe is counter to the above code (2) "Scheduling of patients" by someone who is not licensed to practice optometry.

Issue #2 Clinical Decisions VSP Ventures has now taken away lens choices for the doctors. There is only a small list of choices of materials, lens types and lens coatings. This takes away my clinical decision making. For instance, if I think my patient really needs a Sync 9 made with trivex for his best vision, that will not happen. They are taking all of these choices from me. Choices I have thought out carefully from many years of school. Instead, Ventures is saying one

size fits all and nothing else matters. I get to deal with the patients that still have issues that were not solved because my recommendations were not used.

And to Dr. Marchant's point, by keeping us chronically understaffed, it directly impacts our clinical decisions. We cannot serve our patients to the best of our ability when we are being handcuffed at our desks.

We truly seek your guidance on these issues. Thanks so much.

Sincerely,

TONYA HUBBARD, OD

My name is Becky Humphreys, and I have been practicing optometry in Sparks, Nevada for 23 years. I have thoroughly enjoyed practice and patient care up until this past year. Our practice, Family Eyecare Associates, was acquired by VSP Ventures in 12/2020. At first, the new management held to their promise that they would not be involved or impose restrictions on our clinical practice or patient care - in other words, we doctors would retain the autonomy to practice and manage patient care as we saw fit.

That changed earlier this year. VSP Ventures imposed a requirement to see more patients per hour than what I was accustomed. This has affected my patient care and my ability to provide quality care in the following two ways:

- 1). The requirement of “see more patients per hour” has cut in to my ability to complete patient care at the time of the scheduled appointment. As such, I am often finishing the patient record hours or days after my patient encounters on my own time. This compromises the accuracy of my patient records, and it certainly delays referrals being sent in a timely fashion on behalf of my patients.
- 2). Due to the mandate of “see more patients per hour,” I am often running behind schedule. This affects the care of my patients as now they are made to wait on me, and it also affects my ability to take necessary breaks & lunch. On multiple occasions, I got a 5-10 minute lunch (and breaks are obsolete), which is not sustainable physically nor is it helping my mental ability to take care of my patients in the best way possible. Ventures does not seem concerned on how this mandatory schedule change is affecting their providers in our office.

Thank you for your attention to my concerns. I appreciate all the Nevada State Board of Optometry does, to protect the interests of the patients and licensees of Nevada.

Warm regards,

Becky Humphreys, OD

PROFESSIONAL EMPLOYEE LEASING AGREEMENT

This **PROFESSIONAL EMPLOYEE LEASING AGREEMENT** (this "**Agreement**"), effective as of December 30, 2020 (the "**Effective Date**"), is entered into by and between Rowan Optometry, PC, a Nevada domestic professional corporation ("**New Practice**") and Humphreys, Marchant, Humphreys and Cooper, O.D.S., Ltd., a Nevada domestic professional corporation d/b/a Family Eyecare Associates ("**Practice**").

RECITALS

WHEREAS, New Practice recruits, employs, engages as independent contractors, and retains certain professional personnel;

WHEREAS, Practice desires to obtain from New Practice the services of such professional personnel, and New Practice desires to provide the services of such professional personnel, in each case, according to the terms and conditions of this Agreement;

AGREEMENT

NOW, THEREFORE, in consideration of the respective covenants and agreements of the parties contained herein, the parties hereto agree as follows:

Section 1. Leased Professionals.

(a) **Engagement of Leased Professionals.** New Practice hereby agrees that the optometrists and other professional personnel designated by New Practice (the "**Leased Professionals**") shall, during the Term (defined below), perform for Practice such functions and services as Practice shall determine, consistent with reasonable expectations in Practice's industry of persons serving in similar positions. The identity of the professional personnel may be amended and deemed amended from time to time by Practice and New Practice to reflect the addition or deletion of Leased Professionals, in each case without the need for any other writing or approval by Practice or New Practice.

(b) **Leased Professional Qualifications.** New Practice shall ensure that each Leased Professional is reasonably qualified to perform the professional functions and services specified by Practice and, where applicable, that each Leased Professional maintains the qualifications and licenses required by the State of Nevada for the Leased Professional's job classification. Practice may, from time to time, make recommendations to New Practice on the experience, education, and other qualifications of Leased Professionals.

(c) **Exclusive Engagement.** Practice shall not, without New Practice's prior written consent, enter into any separate agreement for the lease or engagement of personnel.

(d) **Removal of Leased Professionals.** Practice may request that New Practice terminate a Leased Professional's appointment hereunder and remove such Leased Professional at any time and for any lawful reason by written notice delivered to New Practice (a "**Removal**"). As of the effective date specified by Practice in such notice, such individual shall no longer be a Leased Professional under this Agreement. Practice shall remain liable for any additional amounts due to New Practice related to such Leased Professional under this Agreement and shall pay over the same to New Practice not later than the date that any such amounts shall become due and payable.

(i) New Practice reserves the right to hire, engage, discipline, or terminate the Leased Professionals; provided, that New Practice shall use commercially reasonable efforts to provide notice to and consult with Practice regarding any proposed termination.

(e) **Place of Performance.** All work and services by the Leased Professionals hereunder will be performed at Practice's place(s) of business or at such other place or places as may be reasonably designated by Practice (such place of business or other designated places, "**Worksites**").

Section 2. Term and Termination.

(a) **Term of Agreement.** The term of this Agreement (the "**Term**") shall begin on the Effective Date and shall remain in effect for so long as that certain Transitional Management Services Agreement by and between Practice and VSP Ventures Management Services LLC (the "**Management Services Agreement**"), which is dated concurrently herewith, remains in effect. The period during which such Management Services Agreement shall remain in effect shall be known as the Transition Period.

(b) **Termination of Agreement.** This Agreement shall terminate upon, and only upon, the termination of the Management Services Agreement, in accordance with the terms of the Management Services Agreement.

Section 3. Rights and Duties of New Practice.

(a) **Employment Relationship.** New Practice (or its affiliate) shall at all times be the employer of, or party engaging as independent contractors, as the case may be, the Leased Professionals and, subject to Section 4(a), New Practice shall have all rights and duties of an employer with respect to the Leased Professionals.

(b) **Compensation.** New Practice shall compensate each Leased Professional for his or her services to Practice under the terms of this Agreement and at such wage rates, salaries, or other compensation as determined by New Practice ("**Compensation**"), as may be amended from time to time, less all withholdings and authorized deductions, and payable in accordance with New Practice's payroll practices applicable to such Leased Professionals. New Practice shall determine the amount of each Leased Professional's Compensation. New Practice may, after consultation with

Practice, determine whether and to what extent it may award raises or bonuses to the Leased Professionals during the Term.

(c) **Benefits.** Each Leased Professional who is an employee of New Practice may be eligible to participate in the employee benefit plans, arrangements, practices and programs of New Practice applicable to such Leased Professionals existing on the Effective Date (the "**New Practice Benefit Plans**"), subject to, and on a basis consistent with, the terms of such New Practice Benefit Plans.

(d) **Insurance.** During the Term, New Practice shall maintain and keep in full force and effect (i) general liability insurance and (ii) workers' compensation insurance or self-insurance, covering all of the Leased Professionals who are employees. New Practice shall prepare and file required documents pertaining to reporting claims arising during the Term under all applicable laws, and shall provide injured Leased Professionals who are employees assistance to obtain medical and rehabilitation benefits.

(e) **Payroll.** Except as otherwise specified in this Agreement, New Practice shall be responsible during the Term for the payment of wages to Leased Professionals and all applicable withholdings.

(f) **Confidentiality.** New Practice shall treat all personnel information provided by Practice, its employees and agents to New Practice in connection with providing the services under this Agreement as confidential information of Practice, and New Practice shall take all reasonable action to maintain such confidentiality. New Practice shall comply with all privacy laws and other laws protecting the use or disclosure of such personnel information.

Section 4. Rights and Duties of Practice.

(a) **Performance of Services.** Practice shall comply with all applicable federal, state and local laws affecting the Leased Professionals in connection with their performance of services under this Agreement and shall notify New Practice of any alleged violation of such laws immediately upon becoming aware of any such alleged violation. Practice shall be responsible for assuring that all of the Leased Professionals, while providing services for the Practice, are compliant with applicable laws and the rules, policies and procedures of third-party payors such as Medicare, Medicaid and commercial health plans. Practice shall provide and maintain in a safe condition: (i) the physical premises where the Leased Professionals shall work, and (ii) all tangible and intangible property, assets and services necessary for the Leased Professionals to perform their services to Practice hereunder, including all equipment, materials, supplies and office services.

(b) **Employment Practices.** Practice shall cooperate with New Practice and provide such assistance as New Practice may reasonably request in connection with any inquiry by any federal, state or local governmental authority, including any discrimination, harassment, retaliation, wrongful discharge or similar

claims that may be brought against New Practice by any Leased Professional arising out of or while performing services for Practice during the Term.

(c) **Workers' Compensation Claims.** Practice shall promptly notify New Practice of any on-the-job injury or accident and/or claim for workers' compensation benefits (if applicable) involving any Leased Professional during the Term and shall cooperate with New Practice and provide such assistance as New Practice may reasonably request in order to process and administer any workers' compensation claim involving a Leased Professional who is an employee.

(d) **FMLA Leave.** During the Term, Practice shall promptly notify New Practice of any request for, or any situation that the Practice reasonably believes might entitle a Leased Professional who is an employee to, leave under the Family and Medical Leave Act or other federal, state or local law providing for employee leave so that New Practice can properly determine rights to and/or administer such leave, and shall provide such assistance as New Practice may reasonably request in connection therewith. A Leased Professional who is an employee and takes or is on any such leave shall remain a Leased Professional during the Term.

(e) **Confidentiality.** Practice shall treat all personnel information provided by New Practice, its employees, independent contractors, and agents to Practice in connection with providing the services under this Agreement as confidential information of New Practice, and Practice shall take all reasonable action to maintain such confidentiality. Practice shall comply with all privacy laws and other laws protecting the use or disclosure of such personnel information.

Section 5. Consideration.

(a) The Parties hereby acknowledge that this Agreement is entered into for good and valuable consideration, the sufficiency of which is hereby acknowledged. As a result of the leasing of Leased Professionals to the Practice as contemplated by this Agreement, (i) Practice may enter into that certain Asset Purchase Agreement, executed concurrently herewith, without delay and (ii) New Practice may obtain the benefit of the Leased Professionals' services during the Transition Period following the execution of the Asset Purchase Agreement.

Section 6. Indemnification.

(a) **Indemnification by Practice.** Practice shall hold New Practice free of and harmless from all liability, judgments, costs, damages, claims or demands, including reasonable attorneys' fees, to the extent arising out of any act or omission of Practice in the performance or nonperformance of its obligations and duties under this Agreement.

(b) **Indemnification by New Practice.** New Practice shall hold Practice free of and harmless from all liability, judgments, costs, damages, claims or demands, including reasonable attorneys' fees, in any way arising out of (i) the performance, nonperformance, or breach by New Practice of its obligations and duties

under the Agreement, (ii) the failure of any Leased Professional to comply with or perform services pursuant to this Agreement, (iii) the action or inaction of any Leased Professional in the performance of services pursuant to this Agreement, (iv) the failure of any Leased Professional to comply with applicable law in the performance of services pursuant to this Agreement, and (v) any other matter relating to the employment (including termination of employment) of any Leased Professional during the Term (including, but not limited to, claims arising out of tort, contract, equity, implied covenant, invasion of privacy, violation of any collective bargaining agreement, defamation, personal injury, wrongful discharge, emotional distress, discrimination (for any protected category), harassment, retaliation, occupational safety and health claims, work-related injuries, claims for workers' compensation benefits, claims for insurance or other employee benefits, claims for wages, any claim under the Age Discrimination in Employment Act (29 U.S.C. §621 et. seq.), the Civil Rights Act (42 U.S.C. §1981), Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et. seq.), the Civil Rights Act of 1991 (42 U.S.C. §1981(a) et. seq.), the Americans With Disabilities Act (42 U.S.C. §12101 et. seq.), the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. §1001, et. seq.), or the Family Medical Leave Act (29 U.S.C. §2601 et. seq.), any claim under the Fair Labor Standards Act of 1938 (29 U.S.C. §201 et. seq.), the Rehabilitation Act of 1973 (29 U.S.C. §701 et. seq.), the Worker Adjustment and Retraining Notification Act of 1988 (29 U.S.C. 2107(a) et. seq.), any claim under common law, and any claim under any federal, state, or local statute, regulation, constitution, order or executive order).

(c) The foregoing indemnifications shall survive the termination of this Agreement.

Section 7. Status of Parties. Nothing in this Agreement shall be construed to create a joint venture, partnership, association or like relationship between New Practice and Practice, and their relationship as of the Effective Date is and shall remain that of independent parties. Practice shall not be responsible for the payment of Compensation, taxes or benefits to the Leased Professionals.

Section 8. Successors and Assigns. Except as expressly provided herein, no party shall delegate its duties or assign its rights hereunder, in whole or in part, without the prior written consent of the other. Notwithstanding the foregoing, New Practice shall have the right to assign all or part of its rights and interest herein or delegate or subcontract for the performance of any and all duties required to be performed by New Practice as set forth herein (i) to any subsidiary or affiliate thereof or (ii) upon the transfer of all or substantially all of its business and/or assets (by whatever means).

Section 9. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada, without regard to the principles of conflicts of laws thereof. The parties hereto expressly consent to the personal jurisdiction of the state and federal courts of Nevada in connection with any lawsuit filed with respect to this Agreement.

Section 10. Notices. All notices, requests, demands and other communications that are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received, if personally delivered; when transmitted, if transmitted by telecopy, electronic or digital transmission method; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case, notice shall be sent to:

If to Practice:

Humphreys, Marchant, Humphreys and Cooper, O.D.S., Ltd.
1965 Baring Blvd.
Sparks, NV 89434

If to New Practice:

Rowan Optometry, PC
c/o Lisa Fields
3333 Quality Drive
Rancho Cordova, CA 95670

or to such other address as either party may have furnished to the other in writing in accordance herewith. Notice shall be deemed given if personally served on the date it is personally delivered, or if mailed, the date it is deposited in the mail in accordance with the foregoing. Any party may change the address at which to send notices by notifying the other party of such change of address in writing in accordance with the foregoing.

Section 11. Amendment. No amendment or modification of this Agreement or any of its provisions shall be binding upon any party unless made in writing and signed by both of the parties hereto.

Section 12. Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

Section 13. Entire Agreement. This Agreement together with the Management Services Agreement constitute the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection therewith. This document and all other documents specifically referenced herein, constitutes the entire agreement between the parties regarding the services to be provided by the parties hereto. No representations, promises, conditions or warranties with reference to the execution of this document, including, but not limited to, pro forma and other financial information, have been made or entered into between the parties hereto other than those expressly provided herein.

Section 14. Waiver. The performance of any condition or obligation imposed upon any party hereunder may be waived only upon the written consent of the other party. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other party under this Agreement. Any failure by any party to this Agreement to enforce any provision shall not constitute a waiver of that or any other provision of this Agreement.

Section 15. Severability; Blue Pencil. Nothing contained in this Agreement shall be construed so as to require the commission of an act contrary to law and whenever there is any conflict between any provision hereof and any present statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event, the provisions hereof affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law and to carry out the purposes hereof. Practice and New Practice agree that the covenants contained in Section 6 are reasonable covenants under the circumstances, and further agree that if, in the opinion of any court of competent jurisdiction such covenants are not reasonable in any respect, such court shall have the right, power and authority to excise or modify such provision or provisions of these covenants as to the court shall appear not reasonable and to enforce the remainder of these covenants as so amended

Section 16. Survival. New Practice and Practice hereby agree that the provisions of this Agreement that are intended to survive following the termination or expiration of the Term, including but not limited to Sections 3(f), 4(e), 6, 16 and 20, shall survive the expiration of the Term in accordance with their terms.

Section 17. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together will constitute one and the same instrument.

Section 18. No Assumption of Liabilities. New Practice and Practice agree that New Practice is not assuming any obligation or liability of Practice as a result of this Agreement.

Section 19. Waiver of Claims. Practice agrees that it will not sue, make any claim or demand, or otherwise seek any relief or damages from New Practice (or its affiliates or assigns) arising out of, or in any way related to, the conduct of the Leased Professionals or services rendered by the Leased Professionals, other than actions arising out of a breach by New Practice of this Agreement.

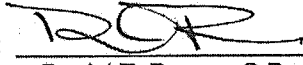
Section 20. No Transfer of Property Rights. All right, title, and interest in and to New Practice's intellectual property shall at all times remain with New Practice. All right, title, and interest in and to Practice's intellectual property shall at all times remain with Practice. Neither party's ownership rights, including, but not limited to, any intellectual property rights, shall be transferred pursuant to this Agreement. This Section shall survive termination of this Agreement.

[Remainder of this page intentionally left blank; Signature page follows.]

IN WITNESS WHEREOF, Practice and New Practice have executed this Agreement under seal as of the date first written above.

NEW PRACTICE:

Rowan Optometry, PC, a Nevada domestic professional corporation

By: 

Name: Daniel T. Rowan, O.D.

Title: President

PRACTICE:

Humphreys, Marchant, Humphreys and Cooper, O.D.S., Ltd., a Nevada domestic professional corporation d/b/a Family Eyecare Associates

By: _____

Name: Denis Humphreys, O.D.

Title: President

IN WITNESS WHEREOF, Practice and New Practice have executed this Agreement under seal as of the date first written above.

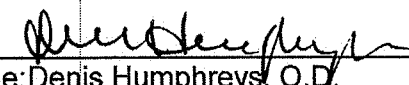
NEW PRACTICE:

Rowan Optometry, PC, a Nevada domestic professional corporation

By: _____
Name: Daniel T. Rowan, O.D.
Title: President

PRACTICE:

Humphreys, Marchant, Humphreys and Cooper, O.D.S., Ltd., a Nevada domestic professional corporation d/b/a Family Eyecare Associates

By:  _____
Name: Denis Humphreys, O.D.
Title: President

TRANSITIONAL MANAGEMENT SERVICES AGREEMENT

THIS TRANSITIONAL MANAGEMENT SERVICES AGREEMENT (this "**Agreement**"), by and between **VSP VENTURES MANAGEMENT SERVICES LLC**, a Delaware limited liability company (the "**Manager**") and Humphreys, Marchant, Humphreys and Cooper, O.D.S., Ltd., a Nevada domestic professional corporation d/b/a Family Eyecare Associates (the "**Practice**"), is dated and effective as of the effective date of the Asset Purchase Agreement (as defined below) ("**Effective Date**").

RECITALS

WHEREAS, Practice engages in the practice of optometry by providing a full range of optometric and related clinical services to its patients ("**Patients**") from the locations set forth on **Schedule 1**; and

WHEREAS, Manager is in the business of providing management, administrative and business support services (the "**Services**"), to optometric providers and related professionals. In this regard, Manager is in the business of providing or arranging for the provision of the Services, facilities, equipment and certain nonprofessional personnel necessary for the operation of its constituent practices; and

WHEREAS, Practice has entered into that certain Asset Purchase Agreement by and among VSP Ventures Optometric Solutions LLC, Rowan Optometry, PC, a Nevada domestic professional corporation ("**PC Buyer**" and together with VSP Ventures Optometric Solutions LLC, "**Buyers**") and Practice (the "**Asset Purchase Agreement**") pursuant to which among other things, Practice has agreed to sell its clinical assets to PC Buyer (the "**Transaction**"); and

WHEREAS, Practice desires to retain Manager to provide management, administrative and business support services as are necessary and appropriate for the day-to-day administration of the Practice on a transitional basis until such time as the Transition Period is complete; and

WHEREAS, Manager desires to provide such Services under the terms and conditions set forth in this Agreement.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Terms that are capitalized within this Agreement and its exhibits are defined in Exhibit I attached hereto.

ARTICLE II

ENGAGEMENT; RELATIONSHIP OF PARTIES

Section 2.1 Appointment. During the Term (as hereafter defined) and subject to applicable laws and requirements governing the practice of optometry and provision of retail eye care services and consistent with the provisions herein, Practice hereby appoints Manager as its sole and exclusive provider of the Services. In addition, Practice hereby appoints Manager as its true and lawful attorney-in-fact to negotiate and execute on its behalf any and all documents deemed necessary by Manager in carrying out its responsibilities under this Agreement, and Manager accepts such appointment; provided, however, that nothing in this Agreement to the contrary authorizes Manager to execute Employment Agreements and Independent Contractor Agreements with licensed optometrists and paraprofessionals (each a "Provider" and collectively the "Providers") on behalf of Practice. During the Term, Practice will not enter into an agreement with any entity or Person other than Manager to perform or assume any of Manager's rights, duties or responsibilities as provided herein.

Section 2.2 Practice's Ultimate Responsibility. As required by applicable laws, regulations and rules governing the practice of optometry, Practice shall retain ultimate responsibility for all activities of Practice that are within the scope of a Practice's licensure. Accordingly, Practice shall have the sole responsibility and authority for all aspects of the practice of the profession of optometry and delivery of optometric services to Patients. Manager may not provide the following services: (a) assume responsibility for care of patients; (b) engage in any activity that involves the practice of optometry; or (c) any service which Manager in its reasonable discretion, determines it is prohibited from providing under applicable laws. Nothing in this Agreement shall be construed to alter or in any way affect the legal, ethical and professional relationship between and among Practice and the Patients. Nothing contained in this Agreement shall abrogate any right or obligation arising out of or applicable to the optometrist-patient relationship.

Section 2.3 Relationship of Parties. In the performance of its duties and obligations under this Agreement, it is understood and agreed that Manager shall at all times be acting and performing as an independent contractor and not as an employee of Practice. Except as provided in this Agreement or as required by law, Practice shall neither have nor exercise any control or direction over the methods by which Manager shall perform its obligations hereunder. Manager shall neither have nor exercise any control or direction over the methods by which Practice shall practice optometry. It is expressly agreed by the parties that no work, act, commission or omission of Manager pursuant to the terms and conditions of this Agreement shall be construed to make or render Manager or Manager's employees or agents, the employees or agents of Practice. It is expressly agreed by the parties that no work, act, commission or omission of Practice pursuant to the terms and conditions of this Agreement shall be construed to

make or render Practice's employees or agents, the employees of Manager. Manager and Practice are not partners or joint venturers with each other, and nothing herein shall be construed so as to make them partners or joint venturers or impose upon either of them any liability as partners or joint venturers. Manager's responsibility is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner. Both Manager and Practice will act in good faith in connection with the performance of their respective obligations under this Agreement.

Section 2.4 Deposit Accounts. Manager shall establish an account or accounts (hereinafter referred to as "**Accounts**") in the name of Practice at a banking institution selected by Manager and which such bank selection shall be subject to the oversight and ultimate authority of Practice. Alternatively, if Practice has existing banking Accounts, Practice shall grant access and signing authority to Manager for all such Accounts and Practice's taxpayer identification number will continue to be used for all such Accounts during the term of this Agreement. All funds received by Practice from whatever source, including dispensary sales, shall be deposited into the Accounts. Practice authorizes Manager to bill and collect, in Practice's name, all charges and reimbursements for Practice's optometric related activities and to deposit such collections into the Accounts. Practice agrees to assist and cooperate with Manager in the billing and collection process. Use of all funds received by the Practice for billings and collections for dispensary deposits shall be directed and authorized by the Manager. At the Manager's discretion, these dispensary funds may be transferred to an account of the Manager. To promote more efficient and cost-effective payment of Practice Expenses, Administrative Expenses and the Service Fees, and to facilitate prompt financial reporting, Practice directs and authorizes Manager to transfer Practice's cash on a daily basis from the Accounts to an account of Manager or an Affiliate of the Manager, and to use such cash for such purposes as Manager deems appropriate, subject to and consistent with the terms and provisions of this Agreement. Nothing in this Section 2.4 shall be construed to limit or otherwise modify the requirement that Manager shall disburse funds in fulfillment of the obligations of Practice and Manager as provided in Article VI of this Agreement.

ARTICLE III

MANAGEMENT AND BUSINESS SUPPORT SERVICES

Section 3.1 General Description of Services. Except as prohibited by law and within the limitations set out elsewhere in this Agreement, Manager shall provide or arrange for the provision to Practice of all Services reasonably necessary and appropriate for the efficient operation of Practice. Such services include but are not limited to all administrative services necessary to Practice's performance of its obligations under any third-party payor contracts, other contracting, financial management, etc. Practice expressly acknowledges and agrees that Manager may contract with Affiliates for the performance of Manager's obligations under this Agreement.

Section 3.2 Billing and Collection. In addition to the responsibilities of the Manager under Article VI, the Manager shall provide all billing and collection services required by Practice. Manager shall advise and consult with Practice regarding fees charged to Patients; provided, however that Practice shall establish the amounts of any Patient fees and Manager shall have no authority to establish the amounts of any Patient fees. Manager shall also administer payment of the accounts payable of Practice. Without limiting the generality of the foregoing, Practice hereby appoints the Manager as its true and lawful attorney-in-fact to take the following actions for, on behalf of and in the name of Practice:

- a. bill and collect in Practice's name or the name of an individual Provider all charges and reimbursements for the Practice. Practice shall give the Manager all necessary access to Patient records to accomplish all billing and collection. In so doing, Manager will use commercially reasonable efforts at all times but does not guarantee any specific level of collections;
- b. take possession of and endorse in the name of Practice any and all instruments received as payment of accounts receivable;
- c. deposit all such collections directly into the Accounts and make withdrawals from such Accounts in accordance with this Agreement; and
- d. place accounts for collection, settle and compromise claims and institute legal action for the recovery of accounts.

Section 3.3 Bookkeeping and Accounting. The Manager shall provide or arrange for bookkeeping services and financial reports and shall implement and manage a computerized information system appropriate for the Practice.

- a. Financial Reporting. In conjunction with Practice's accountant, the Manager shall cause to be prepared, at Practice's expense, financial reports to the extent necessary or appropriate for the operation of Practice including the following:

- (1) unaudited financial statements, including balance sheets and income statements;
- (2) accounts payable and accounts receivable analysis; and
- (3) billing status.

b. Audits. Practice shall have the right to review, inspect and/or copy, at its sole cost and expense, Practice's financial books and records maintained by the Manager. Upon five (5) days' prior written notice, the Manager shall allow Practice access during reasonable business hours to all information and documents reasonably required for such review, inspection and/or audit.

Section 3.4 Files and Records. Manager shall design and supervise the maintenance and custody of all files and records relating to the operation of Practice, including but not limited to accounting, billing, patient medical records, and collection records. All patient records and all books, files, records and reports created or prepared by Manager for or in connection with the operation of Practice shall at all times be and remain the property of the Practice (the "**Practice Records**") and shall be made available for Practice's inspection, copying and other use at all reasonable times, all in accordance with applicable law. Manager shall maintain and manage all of the Practice Records in compliance with applicable state and federal statutes.

ARTICLE IV

PRACTICE RESPONSIBILITIES

Section 4.1 Diagnosis, Treatment Planning, Specific Patient Education and Consultation. Practice and the Providers shall have sole responsibility for all professional optometric services provided to Patients with regard to the diagnosis of a Patient's condition and the development of treatment plan alternatives including, without limitation, the following:

a. Diagnosis. Practice shall have sole responsibility for all optometric history evaluation, examination, obtaining clinical records and diagnostic procedures appropriate for complete diagnosis.

b. Treatment Planning. Practice shall have sole responsibility for all determination of treatment alternatives that may be professionally acceptable for the treatment of the Patient's condition.

c. Specific Patient Education. Practice shall have sole responsibility for all discussion, recommendation, demonstration and other educational modalities intended to address the Patient's specific condition as differentiated from general Patient education intended to address the common concerns of all Patients presenting with similar conditions.

d. Consultation. Practice shall have sole responsibility for all discussion of clinical advantages, disadvantages, complications and risks of each alternative treatment plan, and including the likely results of no treatment.

e. Manager to Assist with Record Procurement. Notwithstanding the above, the Manager shall use reasonable efforts to assist with procurement of patient history information and previous clinical records prior to presentation of the Patient for treatment by Practice.

Section 4.2 Optometric Services. Practice shall have sole responsibility for all professional optometric services provided to Patients with regard to the treatment of the Patient's condition including, without limitation, referral to specialists. Nothing in this Agreement shall be construed to affect or limit in any way the professional discretion or duty of Practice insofar as such constitutes the practice of optometry.

Section 4.3 No Limitation on Professional Judgment. Manager shall not in any way limit or control the professional judgment of Practice with respect to eye care treatment.

Section 4.4 Fees and Charges. Practice shall, after consultation with Manager, establish the fees, charges, premiums or other amounts due in connection with delivery of optometric and eye care items and services to Patients. To facilitate establishment of fees, the Manager shall review and analyze the fees, charges premiums or other amounts and Manager shall make a recommendation to Practice as the level of fees, charges and premiums that Practice should establish for any particular item or service.

Section 4.5 Hours of Clinical Operation. Practice shall, after consultation with Manager, establish hours of operation that are consistent with good optometric practice and that are appropriate to the need to deliver on a timely basis professional services to Patients, seven (7) days per week, according to policies and schedules established by Practice.

Section 4.6 Billing Information and Assignments. Practice shall promptly provide Manager with all billing and Patient encounter information reasonably requested by Manager for purposes of billing and collecting for Practice's services. Practice shall use reasonable efforts to procure consents to assignments and other approvals and documents necessary to enable Manager to obtain payment or reimbursement on behalf of Practice from third-party payors and Patients. With the assistance of the Manager, Practice shall obtain all provider numbers necessary to obtain payment or reimbursement for its services.

Section 4.7 Third Party Contracts. Practice shall maintain compliance with all contracts, agreements and arrangements, including any contracts that exist on the Effective Date, between Practice and third parties.

Section 4.8 Use of Manager's Goods and Services. Practice shall not use any goods or services provided by Manager pursuant to this Agreement for any purpose other than as contemplated by this Agreement.

Section 4.9 Negative Covenants. During the Term, Practice shall not, without the prior approval of Manager, either in a single or series of related transactions (a) pledge, mortgage or otherwise encumber any of its property or the property of Manager, (b) sell, assign, transfer or convey all or substantially all of its assets, including its goodwill, (c) merge or consolidate with any other entity, (d) allow the transfer or issuance of any of its stock or (e) take or allow any act that would materially impair the ability of Practice to carry on the business of the Practice or to fulfill its obligations under this Agreement.

Section 4.10 Practice Maintains Full Professional Authority. Notwithstanding Manager's general and specific rights and responsibilities set forth in this Agreement, Practice shall have full authority and control with respect to all optometric, professional and ethical determinations over its provision of optometric services to the extent required by federal, state and local laws, rules and regulations. Manager shall not engage in activities which constitute the practice of optometry as prohibited under applicable law. Manager shall neither exercise control over nor interfere with the optometrist-patient relationship and which such optometrist-patient relationship shall be maintained strictly between Practice and its Patients.

ARTICLE V

TERM

Section 5.1 Term. This Agreement shall be effective as of the Effective Date and shall remain in effect until the Transition Period ends, unless earlier terminated pursuant to the terms of this Agreement.

Section 5.2 Termination and Extension.

a. Early Termination. This Agreement may be terminated according to the provisions of this Section.

(1) Material Breach. If either party materially breaches this Agreement and such breach is not cured to the reasonable satisfaction of the non-breaching party within thirty (30) days after the non-breaching party serves written notice of the default upon the defaulting party, the Agreement shall automatically terminate at the election of the non-breaching party upon the giving of a written notice of termination to the defaulting party not later than fifteen (15) days after expiration of the thirty (30) day cure period; provided that if such uncured breach is only capable of being cured within a reasonable period of time in excess of thirty (30) days, the non-breaching party shall not be entitled to terminate this Agreement so long as the defaulting party has commenced such cure and thereafter diligently pursues such cure to completion.

(2) Bankruptcy. A party may, upon three (3) days' prior written notice, terminate this Agreement if the other party:

(a) Applies for or consents to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets, files a

voluntary petition in bankruptcy or consents to an involuntary petition, makes a general assignment for the benefit of its creditors, files a petition or answer seeking reorganization or arrangement with its creditors, or admits in writing its inability to pay its debts when due, or

(b) Suffers any order, judgment or decree to be entered by any court of competent jurisdiction, adjudicating such party bankrupt or approving a petition seeking its reorganization or the appointment of a receiver, trustee or liquidator of such party or of all or a substantial part of its assets, and such order, judgment or decree continues unstayed and in effect for ninety (90) days after its entry.

(3) Change in Law or Legal Finding. If any material change in federal or state law that has a significant adverse impact on either party hereto in connection with such party's performance under this Agreement, or if performance by a party of any duties under this Agreement be deemed illegal by any administrative agency or court of competent jurisdiction, or in a formal opinion rendered to Manager by legal counsel knowledgeable in health law matters retained by Manager, the affected party shall have the right to require that the other party renegotiate the terms of this Agreement in a manner that complies with the applicable legal development and approximates as closely as possible the economic positions of the parties prior to that development. Solely in the event of illegality, other than that contemplated in Section 6.1 herein, if the parties fail to reach an agreement within sixty (60) days of the request for renegotiation, either party may (subject to the severability provision of this Agreement) terminate this Agreement upon sixty (60) days' prior written notice to the other party.

(4) Conduct of Manager. If Manager's conduct (i) negatively effects patient care or satisfaction, (ii) the reputation of the Practice, or (iii) any payments under Section 6.3 are not made, the Practice has the right to terminate the Agreement with thirty (30) days written notice.

b. Effect of Termination. Upon termination of this Agreement:

(1) Practice shall surrender to Manager all of Manager's property and equipment used primarily in the operation of Practice in the same condition as received, reasonable wear and tear excepted.

(2) Manager shall deliver to Practice all records related to the business of and provision of optometric services through Practice including, without limitation, patient records and any corporate, personnel and financial records maintained for the Practice and the Providers, provided, that except as limited by law, the Manager shall have the option to copy (or otherwise duplicate) at its sole cost and expense such records of Practice and to retain and utilize such records for its own use;

(3) Manager shall deliver to Practice any other property of Practice in Manager's possession;

(4) Both parties shall cooperate to ensure the provision of appropriate optometric care to Patients;

(5) Practice shall promptly deliver to Manager any Service Fees due and payable to Manager; and

(6) Both parties shall cooperate to ensure the appropriate billing and collections for optometric services rendered by Practice prior to the effective date of termination, and any such cash collected shall be retained by Practice and/or paid to Manager pursuant to Article II.

ARTICLE VI

FINANCIAL AND SECURITY ARRANGEMENTS

Section 6.1 Service Fees. Practice and Manager agree that the compensation set forth in this Article VI is being paid to Manager in consideration of the Services provided or arranged and the substantial commitment and effort made by Manager hereunder, and such fees have been negotiated at arms' length and are fair, reasonable and consistent with fair market value for the Services provided by Manager pursuant to this Agreement. Manager shall be paid the Service Fees and other amounts as set forth on Exhibit II hereto. Payment of the Service Fees is not intended to and shall not be interpreted or implied as permitting Manager to share in Practice's fees for optometric services but is acknowledged as the negotiated fair market value of the equipment, facilities and office space, contract analysis and support, other support services, purchasing, personnel, management, administration, strategic management and other items and services furnished by Manager pursuant to this Agreement after giving effect to the nature and volume of the Services required and the business risks assumed by Manager.

Notwithstanding anything to the contrary in Section 5.2(b)(3) herein, to the extent that a court of competent jurisdiction finds that the Service Fees provisions of this Agreement violate applicable law, the parties agree that this Agreement shall not be subject to termination based upon such finding, but rather that the parties agree to negotiate, in good faith, Service Fees that comply with applicable law and which reflect the economic expectations of the parties.

Section 6.2 Payments. Except as otherwise set forth on Exhibit II hereto, the amounts to be paid to Manager under this Article VI shall be calculated by Manager pursuant to the cash basis of accounting and shall accrue and become payable daily, with actual payments during the term of this Agreement to be made from time to time out of Practice's available cash as determined by Manager and in such priority as set forth in Section 6.3 hereof.

Section 6.3 Priority of Payments. Manager shall administer and make disbursements from amounts deposited into the Accounts or transferred from the Accounts to pay the Practice Expenses and Administrative Expenses as the same become due and payable, and for which Practice shall remain responsible. In

performing its obligations pursuant to Article III, Manager shall apply funds of Practice in the following order of priority:

- a. payment of all Practice Expenses (as defined in Exhibit I);
- b. payment of all Administrative Expenses (as defined in Exhibit I);
- c. payment of the Service Fees (as defined in Exhibit II).

Any amounts which remain following the payment of the expenses and fees set forth in subparagraphs a. through c. above shall be retained in the Accounts and applied as agreed by the parties.

ARTICLE VII

INDEMNITY AND INSURANCE

Section 7.1 Indemnity.

a. Indemnification. Each party shall indemnify, defend and hold harmless the other party from any and all liability, loss, claim, lawsuit, injury, cost, damage or expense whatsoever (including reasonable attorneys' fees and court costs) arising out of, incident to or in any manner occasioned by the performance or nonperformance of any duty or responsibility under this Agreement by such indemnifying party, or any of their employees, agents, contractors or subcontractors; provided, however, that neither party shall be liable to the other party hereunder for any claim covered by insurance, except to the extent that the liability of such party exceeds the amount of such insurance coverage. Specifically, and without limiting the generality of the foregoing, Practice shall indemnify, defend and hold harmless Manager from all liability, loss, claim, lawsuit, injury, cost, damage or expense whatsoever (including reasonable attorneys' fees and court costs) arising out of the professional negligence of Practice, its employees, agents, contractors or subcontractors, including any amounts in excess of the professional liability insurance coverage of Practice or its Providers, employees, agents, contractors or subcontractors. Furthermore, Manager shall indemnify, defend and hold harmless Practice, together with its owners, officers, directors and employees, from all liability, loss, claim, lawsuit, injury, cost, damage or expense whatsoever (including reasonable attorneys' fees and court costs) arising out of the negligent acts or omissions of Manager, its employees, agents, contractors or subcontractors, including any amounts in excess of the professional liability insurance coverage of Manager or its employees, agents, contractors or subcontractors, in the performance of the Services hereunder.

b. Mutual Indemnity. Each party to this Agreement shall be indemnified by the other party for any claim under this Agreement or otherwise against the indemnified party for vacation pay, sick leave, retirement benefits, Social Security benefits, workers' compensation benefits, disability or unemployment, insurance benefits, or other employee benefits of any kind accrued during the term of this Agreement by an employee of the indemnifying party.

Section 7.2 Manager's Insurance. Manager shall, on its own behalf, but the cost of which shall be reimbursed as an Administrative Expense, procure and/or maintain in force during the Term policies in the following categories in the amount indicated:

a. Comprehensive general liability insurance covering the risks of Manager, in such amount as are determined by Manager; and

b. Workers' Compensation insurance covering the employees of Manager, in such amounts as is usual and customary under the circumstances.

Section 7.3 Practice's Insurance. Manager shall obtain and/or maintain, on behalf of and in the name of, Practice in full force and effect during the Term, policies in the following categories in the amount indicated:

a. Comprehensive professional liability insurance coverage for Practice and the Providers in such amounts as are determined by Manager subject to Practice's oversight and ultimate authority (the cost and expense of which shall be a Practice Expense);

b. Workers' Compensation insurance covering the employees of Practice, in such amounts as are determined by Manager subject to Practice's oversight and ultimate authority (the cost and expense of which shall be an Administrative Expense);

c. Comprehensive general liability insurance covering the risks of Practice, in such amount as are determined by Manager subject to Practice's oversight and ultimate authority (the cost and expense of which shall be an Administrative Expense); and

d. Property insurance covering the facilities, equipment, and supplies owned or leased by Practice for use in the operation of the business.

For the avoidance of doubt, in carrying out its duties under this Section 7.3, Manager shall have the authority to cancel any of the policies listed in the Disclosure Schedules attached to the Asset Purchase Agreement if the Manager determines any such policy is unnecessary, in the Manager's sole discretion.

ARTICLE VIII

BOOKS AND RECORDS

Section 8.1 Ownership of Records. All business records and information relating exclusively to the business and activities of either party shall be the property of that party, irrespective of identity of the party responsible for producing or maintaining such records and information. Without limiting the foregoing, all patient charts and records relating to the eye care services of Practice shall be the property of Practice. Practice also shall be entitled to a copy at Practice's sole cost of all business records pertaining to Practice. Except as limited by law including, but not limited to, laws

governing the confidentiality of patient records, Manager shall be entitled to copy at Manager's sole cost all records of Practice.

Section 8.2 Compliance with HIPAA. Manager agrees to maintain the confidentiality, privacy, and security of patient information made available to Manager and its employees to the extent required by law. Without limiting the generality of the foregoing, Manager agrees to comply with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("**HIPAA**") and Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("**HITECH**"), which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated thereunder (collectively, the "**HITECH Standards**") with respect to the privacy and security of "protected health information" (as defined by HIPAA) created, transmitted, maintained or received by Manager pursuant to, or in connection with, the performance of the obligations under this Agreement. Practice shall be responsible for providing patients with a notice of privacy practices that covers Manager's rights to access protected health information. Practice shall be responsible for any compliance obligations pursuant to HIPAA and HITECH Standards with respect to patients treated by the Practice. The parties shall execute the Business Associate Addendum attached hereto as **Exhibit III** and incorporated herein, in order to ensure compliance with (a) the privacy and security regulations promulgated under HIPAA and (b) the HITECH Standards.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1 Assignment. Neither party shall assign this Agreement to any other party or parties without the prior written consent of the other party, which consent may be withheld for any reason or for no reason whatsoever. Any attempted assignment in violation of this Agreement shall be null and void. Notwithstanding the preceding, Manager may assign this Agreement to any Affiliate of Manager or to any purchaser of all or substantially all of Manager's assets associated with the Practice.

Section 9.2 Headings. The article and section headings used in this Agreement are for purposes of convenience only and shall not be construed to limit or to extend the meaning of any part of this Agreement.

Section 9.3 Waiver. Waiver by either Practice or Manager of any breach of any provision of this Agreement shall not be deemed to be a waiver of such provision or of any subsequent breach of the same or of any other provision of this Agreement.

Section 9.4 Notices. Any notice provided pursuant to this Agreement shall be in writing and shall be deemed given (a) if by hand delivery, upon receipt thereof; (b) if mailed, three (3) days after deposit in the U.S. mail, postage prepaid, certified mail return receipt requested; (c) if by reputable overnight courier, on the first business day after delivery to such courier; or (d) if by electronic mail (e-mail), upon confirmation of receipt. All notices shall be addressed to the parties at the respective addresses

indicated herein. A party may change its address by giving written notice to the other party in accordance with this Section 9.4.

Practice:

HUMPHREYS, MARCHANT, HUMPHREYS AND COOPER, O.D.S., LTD.

Address: 1965 Baring Blvd.

Address: Sparks, NV 89434

Attn:

E-mail:

Manager:

VSP VENTURES MANAGEMENT SERVICES LLC

Address: 3333 Quality Drive

Address: Rancho Cordova, CA 95670

Attn: Lisa Fields, Secretary

E-mail: Lisa.Fields@vsp.com

Section 9.5 Attorneys' Fees. If any legal action or arbitration or other proceeding is commenced, whether by Manager or Practice concerning this Agreement, the prevailing party shall recover from the losing party reasonable attorneys' fees and costs and expenses, including those of appeal and not limited to taxable costs, incurred by the prevailing party, in addition to all other remedies to which the prevailing party may be entitled.

Section 9.6 Successors. Without limiting or otherwise affecting any restrictions on assignments of this Agreement or rights or duties under this Agreement, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of Practice and Manager.

Section 9.7 Entire Agreement; Amendment. This Agreement and the exhibits attached hereto and/or thereto, represents the entire agreement between the parties in connection with the transactions contemplated hereby and the subject matter hereof, and the Agreement supersedes and replaces any and all prior and/or contemporaneous agreements, contracts, understandings and communications between the parties, whether oral or written, with regard to the subject matter hereof. There are no oral or written agreements, representations or inducements of any kind existing between the parties relating to this transaction which are not expressly set forth herein or in the Agreement. This Agreement may not be amended except by a writing executed by all parties and subject to the provisions thereof. Any Dispute pursuant to this Section 9.7 shall be resolved pursuant to Section 9.9.

Section 9.8 Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to the laws of the State of California without regard to conflicts of laws rules or principles.

Section 9.9 Dispute Resolution. The parties hereby agree that all disputes arising out of or relating to this Agreement, or the negotiation, execution, or performance of this Agreement or any ancillary agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or any ancillary agreement or as an inducement to enter into this Agreement or any ancillary agreement) (each, a **"Dispute"**), shall follow the following dispute resolution process (except to the extent as otherwise expressly set forth herein or therein):

a. **Executive Meeting.** The parties shall attempt in good faith to resolve all Disputes promptly by negotiation of executives of parties who shall meet in person or as otherwise agreed to negotiate and attempt to resolve any such dispute (the **"Executive Meeting"**). Unless otherwise agreed by the designated executives in writing, the Executive Meeting shall be deemed concluded at the end of the day of the Executive Meeting. Such conclusion shall not preclude continuing or later negotiations, if desired.

b. **Mediation.** If the parties do not resolve the matter at the Executive Meeting pursuant to Section 9.9(a) above, then the Dispute shall be submitted to JAMS, or its successor, for mediation under pursuant to its Streamlined Arbitration Rules and Procedures and in accordance with the Comprehensive Rules with the Expedited Procedures (the **"Mediation"**). The parties agree that they will participate in the Mediation in good faith and that they will share equally in its costs.

c. **Cooling Off.** If the parties do not resolve the matter at a Mediation pursuant to Section 9.9(b) above, each Party agrees not to commence any legal action against the other party or parties for a period of at least 30 days following the outcome of the Mediation (the **"Cooling Off Period"**). During the Cooling Off Period, the parties shall attempt in good faith to continue to resolve all Disputes.

d. **Actions.** If the parties do not resolve the matter during the Cooling Off Period, then the dispute shall proceed to the United States District Court for the Eastern District of California, or if such court does not have jurisdiction, in the California state court sitting in Sacramento County, and in furtherance of the foregoing, each Party hereby irrevocably (1) submits to the exclusive jurisdiction of such courts in any such action, (2) waives any present or future objection to forum, venue or jurisdiction in such courts and any present or future claim that any action brought in such courts is an inconvenient or otherwise inappropriate forum, and (3) agrees not to bring any action in respect of any claim or potential claim of such party, whether by way of declaratory judgment or otherwise, in any other court.

Section 9.10 Third Party Beneficiaries. Nothing in this Agreement shall, or shall be construed so as to, create any third-party beneficiary or enforcement rights.

Section 9.11 Severability, Contract Modifications for Prospective Legal Events. Nothing contained in this Agreement shall be construed to require the commission of an act contrary to law, and whenever there is any conflict between any provision of this

Agreement and any statute, law, ordinance or regulation, the latter shall prevail. In such event, and in any case in which any provision of this Agreement is determined to be in violation of a statute, law, ordinance or regulation, the affected provision(s) shall be limited only to the extent necessary to bring it within the requirements of the law and, insofar as possible under the circumstances, to carry out the purposes of this Agreement. The other provisions of this Agreement shall remain in full force and effect, and the invalidity or unenforceability of any provision hereof shall neither affect the validity and enforceability of the other provisions of this Agreement nor the availability of all remedies in law or equity to the parties with respect to such other provisions.

If any state or federal laws or regulations, now existing or enacted or promulgated after the effective date of this Agreement, are interpreted by judicial decision, a regulatory agency or legal counsel of both parties in such a manner as to indicate that the substantive structure of this Agreement may be in violation of such laws or regulations, Practice and Manager shall proceed in good faith to amend this Agreement, to the maximum extent possible, to preserve the underlying economic and financial arrangements between Practice and Manager. A party to this Agreement may choose to, but shall not be required to, take any action or to make any amendment to this Agreement if such action or amendment would put the party in a substantially and materially worse economic or financial position than that contemplated by the terms of this Agreement. The parties acknowledge that such amendment may require reorganization of Practice or Manager, or both, and may require either or both parties to obtain appropriate regulatory licenses and approvals. If an amendment is not possible, either party shall have the right to terminate this Agreement upon thirty (30) days' notice to the other party.

Section 9.10 Time Is of the Essence. Time is of the essence in this Agreement.

Section 9.11 Authority. Any Person signing this Agreement on behalf of any entity hereby represents and warrants in his or her individual capacity that he or she has full authority to do so on behalf of such entity.

Section 9.12 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Counterpart signature pages to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document will have the same effect as physical delivery of the paper document bearing an original signature.

Section 9.13 Gender. Whenever the masculine gender is used in the Agreement, it will also include the feminine or neuter gender, and vice versa, whenever the context in which the words are used in this Agreement requires or permits.

Section 9.14 Confidentiality. The existence, nature, terms, and conditions of this Agreement are strictly confidential. Each Party shall keep the existence of this Agreement confidential and shall not disclose the terms of this Agreement to any person

other than the Party's officers, directors, board members, attorneys, or accountants without the other Party's consent. Any disclosure in violation of the confidentiality clause shall be deemed an automatic breach of this Agreement.

Section 9.15 Patient Referrals. The parties agree that the benefits related to the Business of Practice hereunder do not require, are not payment for and are not in any way contingent upon the admission, referral or any other arrangements for the provision of any item or service offered by the Manager or any Affiliate of the Manager to any of Practice's Patients in any facility or laboratory controlled, managed or operated by the Manager or any Affiliate of the Manager.

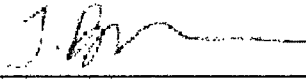
Section 9.16 Compliance with Law. The Manager and Practice shall comply with all applicable federal and state laws, statutes, rules and regulations including, without limitation, those relating to Medicare and Medicaid reimbursement and any other applicable governmental rules or the guidelines governing the standards for conducting, in the case of Practice, or providing management and business support services to, in the case of Manager, an optometry practice.

[Signature Page Follows.]

IN WITNESS WHEREOF, Practice and Manager have caused this Agreement to be executed as of the date first above written.

MANAGER:

VSP Ventures Management Services
LLC, a Delaware limited liability company

By: 

Name: Tiffanie Burkhalter

Title: President

PRACTICE:

Humphreys, Marchant, Humphreys and
Cooper, O.D.S., Ltd., a Nevada domestic
professional corporation d/b/a Family
Eyecare Associates

By: _____

Name: Denis Humphreys, O.D.

Title: President

[Signature Page to Transitional Management Services Agreement.]

IN WITNESS WHEREOF, Practice and Manager have caused this Agreement to be executed as of the date first above written.

MANAGER:

VSP Ventures Management Services
LLC, a Delaware limited liability company

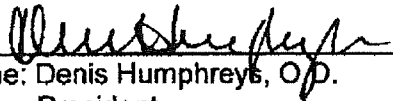
By: _____

Name: Tiffanie Burkhalter

Title: President

PRACTICE:

Humphreys, Marchant, Humphreys and
Cooper, O.D.S., Ltd., a Nevada domestic
professional corporation d/b/a Family
Eyecare Associates

By:  _____

Name: Denis Humphreys, O.D.

Title: President

[Signature Page to Transitional Management Services Agreement.]

**SCHEDULE 1
PRACTICE SITE FACILITIES**

1. 1965 Baring Blvd., Sparks, NV 89434
2. 18601 Wedge Pky. Suite 2C, Reno, NV 89511

Schedule 1

EXHIBIT I
ARTICLE 1 - DEFINITIONS

For purposes of this Agreement, the following terms shall have the meaning indicated below or defined at the indicated section:

"Administrative Expenses" means all costs incurred by Manager or any Affiliate of the Manager in providing all services under this Agreement, including without limitation,

i. The salaries, benefits, and other direct costs of all employees of Manager or any Affiliate of the Manager providing services at the Practice Site Facilities;

ii. Recruitment costs and out-of-pocket expenses of Manager or any Affiliate of the Manager associated with the recruitment of additional Providers or other licensed or unlicensed personnel;

iii. Professional liability insurance expenses for Manager or any Affiliate of the Manager employees; workers' compensation premiums for Manager or any Affiliate of the Manager employees at the Practice Site Facilities; and comprehensive general liability insurance expenses covering the Practice Site Facilities and employees of Practice and Manager or any Affiliate of the Manager at the Practice Site Facilities;

iv. The cost of supplies (including but not limited to products, substances, items, or devices), and office supplies;

v. Rent, utilities, repairs and maintenance and other costs of occupancy of the Practice Site Facilities;

vi. Without limiting the foregoing, expenses related to the practice management and other information systems provided, made available, or arranged for by Manager or any Affiliate of the Manager for use in connection with Practice's business, including without limitation expenses associated with third-party systems, amortization of internal development costs, costs of facilities and hardware (including occupancy costs and hardware for offsite data centers), costs of establishing and maintaining a wide area network and similar expenses, costs and expenses of personnel involved in any system conversion, and costs and expenses of the helpdesk and database administrator personnel.

vii. Personal property and intangible taxes assessed against Manager's or any Affiliate of the Manager's assets which are provided or otherwise employed by Manager or any Affiliate of the Manager for the benefit of Practice;

viii. The reasonable travel expenses associated with attending meetings, conferences, or seminars to benefit Practice;

Exhibit I



Standard Operating Procedures for Appointments

**EMPOWERING OPTOMETRIC
POTENTIAL TOGETHER**

Appointment Scheduling

Appointment scheduling best practices are a mutual agreement between PC Shareholders and VSP® Ventures. When scheduling appointments, keep in mind patient care is paramount as it provides access to vision care in the communities we serve. Team members should be planning and managing the appointment book daily as follows:

Scheduling Best Practices

1. When scheduling an eye exam, make sure you complete a full patient profile in your PMS including the following information:
Name, DOB, Address, Phone Number, Email, Employer, Vision Insurance (Primary Member if not the patient), Last four digits of SS# or ID#.
Also ask for Medical Insurance where applicable.
Review Eligibility and Verification SOP for additional details on how to complete verification.
2. Always offer low volume days and times first and if they don't work for the patient, gladly work with them on what is best for their schedule. If 100% booked out and have no available appointments in the timeframe that meets the patient's needs, offer another Ventures practice using the Ventures Master Practice List ([LINK](#)).
3. When two or more ODs are working at the same time, stagger the doctor schedule where possible, so patient backlog is avoided across practice activities.
4. Ideally, book no more than one follow-up appointment (Rx check or CL check) per hour and ideally, schedule follow-ups for non-busy times/days.
5. Attempt to book no more than two contact lens appointments per hour to allow for seamless patient flow.
6. Do not schedule I&R and other Pre-Appointments on the doctor template. These appointments should be on a separate template for the OD technician.

When scheduling a patient appointment, make sure to ask for the following information:

- What is the patient's chief complaint?
- What kind of appointment is the patient booking?
- If the practice has multiple doctors, confirm the doctor the patient wishes to see and that the provider is in-network with the insurance provided.
- If the patient does not have insurance, confirm the cost of the visit with them upfront.
- If the patient is booking a contact lens appointment, ask:
 - Is the patient a new contact lens wearer?
 - If the patient is a new patient and has worn contacts before, what brand have they worn? (Please ask the patient, if possible, to bring boxes, packages, or CL RX with them to their appointment.)
- Confirm patient's DOB, phone number, address, and email address (even with previously existing patients for future outreach and marketing purposes).
- Ask for the name of the primary insurance holder and their DOB and Last 4 Digits of SS# as needed to verify insurance if they do not have a specific policy number.

Appointment Book Management

To operate smoothly, practices should regularly manage their appointment books two weeks out (adjust as necessary).

As part of this process, you should:

- Address all online scheduled appointments within 24 hours of showing up on the book.
 - Monitor online appointment requests and reach out to the patient to obtain Insurance information if necessary.
 - For any duplicate appointments, complete due diligence by contacting the patient to confirm which appointment time slot they would like to keep and then cancel the other. Appointments must not be deleted to preserve a paper trail in the system.
- Preauthorize all benefits and notify patient of any issues prior to day of exam. Review Eligibility and Verification SOP for additional details on how to complete verification.
- For those appointments that have not been confirmed by Solutionreach or another automated appointment system, patient coordinators should make reminder calls each afternoon for the next day's appointments. (Solutionreach sends reminders one week, two days, and three hours before the appointment.)
- If confirming or booking an appointment via phone call, remind the patient to come in 10–15 minutes early to complete paperwork.
- Keep a waitlist of patients with preferred dates and times that want to come in earlier than their scheduled appointment (via PMS or shared document).
 - This is extremely helpful for those that live close by and can come in on short notice if you receive a cancellation.
- If the patient arrives early and paperwork has been completed or the OD is running behind, walk the patient to Optical to shop while they await their appointment time.
- Despite best efforts, patients will still arrive late to their scheduled appointment time. When this occurs, do everything possible to accommodate the patient. However, defer to practice manager and doctor preference to accommodate late or no-show appointments.
- Accommodate patients with disabilities or accessibility needs. Appointments may need to be extended to appropriately provide accommodations (See "Accessibility SOP" for additional details).

Walk-in Appointments

Just Say Yes: Whenever possible, respond "YES."

- Always tell the patient the expected wait time.
- Communicate the implications of a walk-in appointment (i.e., "We will do our best to authorize insurance benefits during your appointment, however, if we cannot obtain a verification, the cost for today's visit will approximately be \$X"). If a walk-in patient pays for their exam as a private pay patient and later needs to be reimbursed, simply follow standard reimbursement procedures.
- Take walk-ins only in partnership with your OD but protect the 1/2 hour before the OD's lunch or in the hour before closing to protect their lunch and end of day.

When scheduling a walk-in patient appointment, make sure to follow the same procedures for regular appointment scheduling to ensure there is a completed patient profile.

Managing Flow

Managing the flow of patients is the responsibility of management and team members who are scheduling appointments. When done properly, the patient's wait time will be kept to a minimum, and "walk-ins" will be able to be accommodated.

The patient coordinator is the main team member who schedules appointments and needs to have a thorough understanding of the scheduling template, which includes the number and type of patient appointments available each day. This understanding will ensure that patient flow is smooth and efficient. Appointments will be staggered at 20-minute intervals. Blocking the book will only be acceptable after partnership with your Field Leader. Any staffing or scheduling concerns causing the desire to make book adjustments need to be discussed with and approved by your Field Leader.

Emergency Appointments

First (with input from your doctor, if necessary), determine if the patient is having an ocular problem that needs an emergency appointment, or if the patient needs a medical or comprehensive eye exam. We should do everything possible to never turn a patient away including eye emergencies, even if the office's schedule is fully booked for that day. For phone triage support, PM and OD are the best resource.

Sample Script:

Are you experiencing redness, recent onset of blurry vision, pain, or flashes of light?

- If the patient says yes, use the "Phone Triage Flow Chart" to determine if an emergency appointment needs to be scheduled.
- If the patient says no, move to the next script.

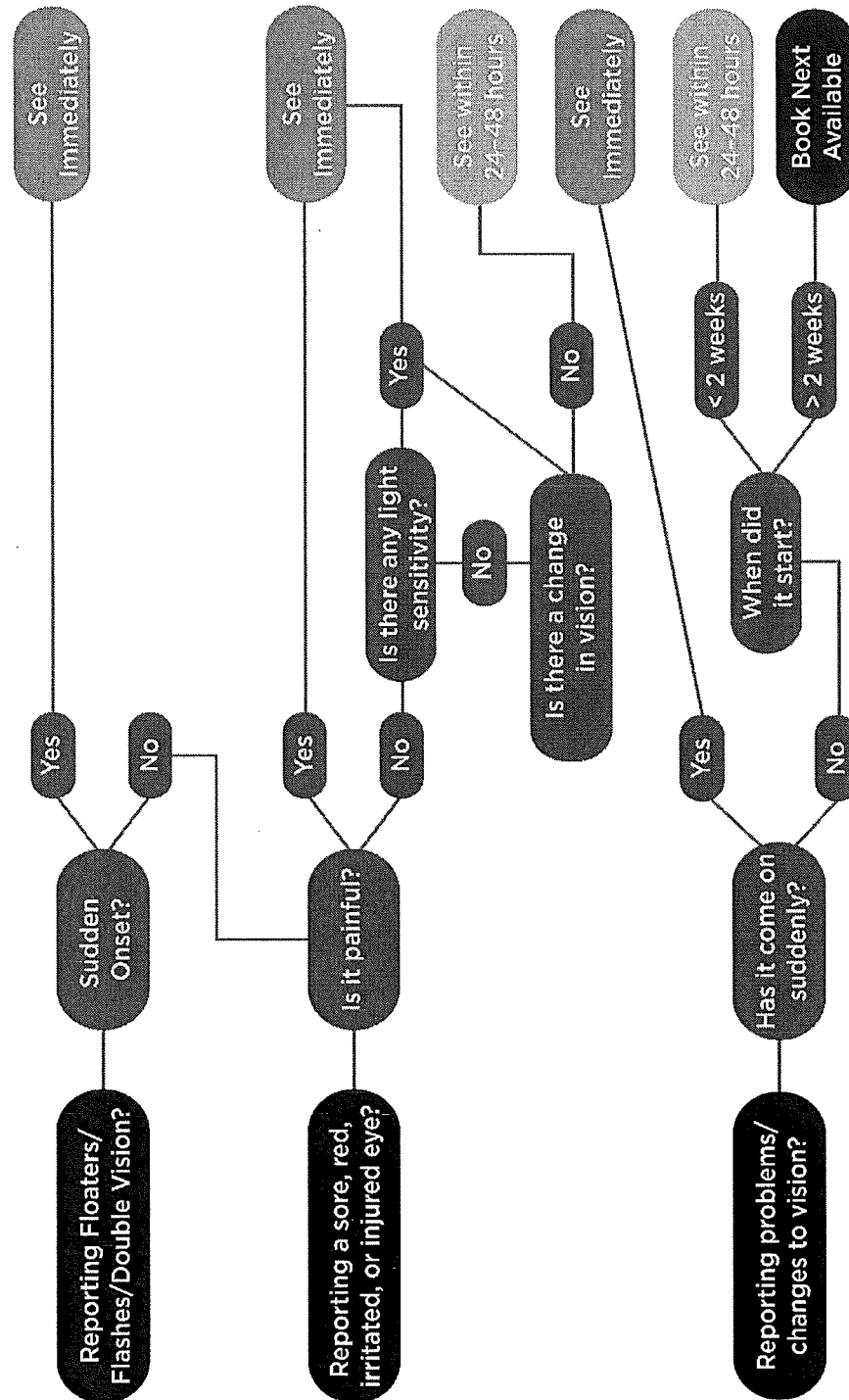
Sample Script:

Have you been diagnosed with diabetes, glaucoma, macular degeneration, or cataracts?

- If the patient says yes, schedule a medical appointment.
- If the patient says no, schedule a comprehensive appointment.
- If you are unable to get in contact with the office and are unsure where to squeeze the patient in, ask a lead team member what the best possible time would be.
- When booking an emergent appointment, make sure to get as much information for the office from the patient as possible.
 - Which eye is bothering them?
 - When did the symptom start?
 - What exactly is going on with the eye? (Blurry vision, flashes of light, blood in the eye, pain, etc.)
 - Is this causing any additional symptoms? (Headache, dizziness, etc.)
 - Have you used anything to help relieve symptoms? (Eyedrops, cold/hot compress, etc.)

Note: Even in the case of emergency appointments, cost (and the implications of unverified benefits, if applicable) should always be clearly communicated to the patient to secure a positive experience.

Ventures Phone Triage Workflow



Note: If there is any question regarding the severity of the emergency or the ability of the practice to treat, always encourage the patient to call 911 to ensure they receive appropriate medical intervention as quickly as possible.

Note: Always do your best to accommodate late patients. Be sure to communicate with your doctor if a patient is late and will be worked into the schedule.

If the schedule is fully booked and the patient arrives past their appointment time, assure the patient that we will do our best to get them seen in a timely manner, however, we have other patients on the schedule that will have to be seen at their normal appointment times.

Exam Book Template* – Illustrative (each practice will vary slightly based on start and end times as well as OD preferred lunch time and state laws)

(*The example below is meant to be illustrative. In the example below, if your office opens at 9 a.m., you would need to ensure the doors are unlocked by 8:45 a.m. to greet your first patient.)

9-5 Shift 2-3 Lunch	
9:00 A.M.	Slot
9:20 A.M.	Slot
9:40 A.M.	Slot
10:00 A.M.	Slot
10:20 A.M.	Slot
10:40 A.M.	Slot
11:00 A.M.	Slot
11:20 A.M.	Slot
11:40 A.M.	Slot
12:00 P.M.	Slot
12:20 P.M.	Slot
12:40 P.M.	Slot
1:00 P.M.	Slot
1:20 P.M.	Slot
1:40 P.M.	x
2:00 P.M.	x
2:20 P.M.	x
2:40 P.M.	x
3:00 P.M.	Slot
3:20 P.M.	Slot
3:40 P.M.	Slot
4:00 P.M.	Slot
4:20 P.M.	Slot
4:40 P.M.	Slot
5:00 P.M.	Slot
5:20 P.M.	Slot
5:40 P.M.	x
6:00 P.M.	x
6:20 P.M.	x
6:40 P.M.	x
7:00 P.M.	x
7:00 P.M.	x
7:20 P.M.	x
7:40 P.M.	x

First Appt	9:00
Last Appt	5:20
Total	22
Last Appt Before Lunch	1:20
First Appt After Lunch	3:00
Lunch Blocks	1:40, 2:00, 2:20, 2:40
No Appt	x
Slots	22

- Slots could be filled with any appt type
- Durations are defined as 20 min
- Durations can be extended at OD discretion
- Last appt before lunch and at the end of the day is always 40 min before lunch or end of shift
- 22 slots in an eight-hour day
- Limit to one follow up per hour
- Limit to max of two CL patients per hour

Appendix/Tips and Tricks

Appointment Scheduling Customer Service

ALWAYS smile when answering the phone. Go the extra mile to make the patient happy and make them feel like a vital part of the practice. Patients can pick up on subtle cues and tones and will judge our practice from the first moment we speak with them. Remember patients pay the bills so phone etiquette is 110% vital to our image.

Sample Script:

Good morning/afternoon, thank you for calling [Practice Name]. My name is [your name], how may I help you today?"

The patient may respond with "I'd like to schedule an appointment."

Sample Script:

Absolutely, let's get that scheduled for you. When was the last time we saw you in our office?

The patient answering this question with rough timing is an indication they have been at your practice before. You can then ask for their date of birth to ensure that if there are multiple patients in the PM system that have the same name, that you are booking the correct patient. Validate the name, then validate their address, phone number, and email address.

If there are any changes, update the patient record.

If the patient says no, create a new patient record in the practice management system and input:

- Patient's name
- Date of birth
- Social Security Number (if using insurance)
- Address
- Phone number
- Email address

If the appointment being scheduled is for a child, under the age of 18, we will also need the guarantor's name, date of birth, social security number (if using insurance), phone number, and email address for billing purposes.

Smart Scheduling Best Practices

Large families can often be booked in tighter windows as they all arrive together and time waiting between patients is eliminated. Partner with your OD and PM to address scheduling of large families together.

The Appointment Book may be optimized by moving around patients around where appropriate.

Example:

If a patient is scheduled for a year-out appointment at a peak day or time, ask if they would be willing to come in at a slower day or time:

- The preferred appointment slot is 20 minutes in length
- Year-out appointments should remain in their own category until confirmed

Sample Script:

[Patient Name], I see your [husband, daughter, or son name] is also due for their annual eye exam. May I schedule them for the same time as your appointment?

If this is a new patient, check to see if any family members are due for an appointment.

Sample Script:

[Patient Name], may I schedule an appointment for any other family members?

Confirm the appointment and end the call.

Sample Script:

[Patient Name], is there anything else I can help you with?

If no, respond with: I have your appointment scheduled for [time] on [date]. Please arrive 10–15 minutes early and bring in your insurance cards, photo ID, and all your eyewear, including your sunglasses and contact lenses if you wear them. If you are taking any medications, please bring in a list of those for the doctor. Thank you so much for calling, we look forward to seeing you.

Rescheduling an Appointment

Cancellations

Cancellations are an inevitable risk of appointment scheduling. Excessive cancellations can hurt the financial health of the practice and take away appointment slots from other patients, especially at the last minute. Despite the impact to the practice, it is important to be accommodating and provide excellent customer service in the case of a cancellation. Demonstrating flexibility and understanding will encourage the patient to reschedule their appointment for a different date.

If the patient is unable to confirm the appointment or would like to cancel and reschedule their appointment, respond with:

Sample Script:

We understand things pop up [Patient Name] and I am happy to reschedule your appointment for a time that is more convenient for you.

- I have [date] at [time] available. Is this better for you? Great, I have you confirmed for [date/time]. We look forward to seeing you then.

If the patient is unable to reschedule their appointment, respond with:

Sample Script:

We understand things pop up [Patient Name] and I am happy to follow up with you on a later date.

Note: For those patients who are not able to reschedule, set a reminder to attempt to contact again in one month.

No-Show

There are many reasons why patients fail to show up for a scheduled appointment. Similar to cancellations, patients often do not realize the impact their missed appointment has not only on the practice but for other patients.

A missed appointment that is not able to be rescheduled eliminates the ability for another patient to receive care.

If the patient did not show up for their appointment, best practice is to call the patient within 10–15 minutes of a missed appointment. The patient will also be notified of their missed appointment via automated reminder and reminded once a month for up to 15 months after they are due for an appointment.

If you have a patient that has had continuous no-shows, partner with your OD and PM to define your practice approach to rescheduling.

Note: As practices typically see one-two missed or cancelled appointments per day, the practice may double book one-two patients each morning and afternoon to keep appointment books on track. Double bookings should be scheduled in partnership with your OD and PM.

Sample Script:

Hi [patient name]. This is [your name] from [practice name]. I noticed we had you scheduled for an appointment at [time] today. We just wanted to call and make sure everything was okay and work with you to get you scheduled for a time that is better for you or see if you are en route.

- If the patient replies, "Yes, I'm running late and will be there in 5 minutes."

Respond with, "Wonderful, we will see you shortly."

- If the patient replies, "No, I've had something come up."

Refer to "Cancellations" and work to reschedule the patient.

- If the patient doesn't answer the call:

Leave a voicemail:

"Hi [patient name], this is [your name] from [practice name]. I noticed we had you scheduled for an appointment at [time] today and didn't see you. You may be on your way, but if not, we just wanted to make sure you are okay and then work to get you back on the schedule as soon as possible. We look forward to hearing back from you. Please give us a call at [XXX.XXX.XXXX]."

Verifying Insurance

Sample Script: [Patient Name], do you have your medical insurance card handy? I will need to verify your medical insurance and vision plan information prior to your appointment.

If the patient asks “why,” simply respond with:

Sample Script: We gather your medical insurance information in the event an ocular condition, such as glaucoma, macular degeneration, or dry eye is found during an exam and need to be treated. We want to make sure we are prepared and that there are no financial surprises in the event these ocular conditions are your chief complaint or impact your prescription.

If the patient says, “I’ve never had to pay before,” respond with:

Sample Script: We will always work to pre-verify your insurance and apply your benefits to your total fees. Once your insurance is applied, we do need to collect any patient responsibility during your visit.

Our doctors of optometry offer exams to help treat, diagnose, and manage eye diseases, such as diabetes, glaucoma, or dry eye. We do more than just a prescription for glasses or contacts, if medical issue arises or presents during the exam, we always want to make sure we are prepared.

If the patient says, “I do not have my medical insurance card with me,” respond with:

Sample Script: No problem. Please make sure you call me back as soon as possible with your information. If we are unable to verify all your insurance benefits prior to your appointment, you may be seen as a self-pay patient. We do need both medical and vision benefit information, in the case that a medical condition is identified during your visit and will communicate accordingly in the case that it needs to be billed.

Vision plan information is always collected (or validated) prior to the exam. Sometimes, this information can be found on the medical insurance card. Other times, we need to ask. In the appropriate section of the practice management system, input the following information:

- Name of the vision insurance company
- Name on the insurance card
- ID Number
- Social Security Number
- Primary Name, DOB, and Social (if applicable)

Sample Script: [Patient Name], do you have a vision plan?

If the patient says, “I’m not sure,” respond with:

Sample Script: Some of the common vision plans are VSP, EyeMed, and Davis. Do any of those sound familiar?

If the patient says, “Oh, I have VSP,” respond with:

Sample Script: Wonderful, that’s a great plan. I will need the Member First Name, Last Name, DOB, and Member ID—either last four digits of SSN or Full ID—to pull the authorization summary form.

Materials for Agenda Item

No. 6

Relevant law

NRS 636.372 Leasing of office from unlicensed person; regulations.

1. Except as otherwise provided in subsection 4, an optometrist may enter into an agreement with a person who is not licensed pursuant to the provisions of this chapter for the leasing of a building or a part thereof for use in his or her practice. The lease may contain a provision which requires that the rent must be based on a percentage of the revenue earned by the optometrist in his or her practice if the total amount of rent paid for the building or part thereof does not exceed its fair rental value, including any furniture, fixtures or equipment therein.

2. An optometrist who enters into such a lease with a physician may locate his or her office in the same place of business as the physician without a physical separation between the office and the place of business.

3. The Board may adopt regulations prescribing the requirements for such leases. The regulations must ensure the quality of optometric care and the practice of optometry without restricting competition or the commercial practice of optometry.

4. An optometrist shall not enter into a lease pursuant to this section unless, during the term of the lease, the optometrist maintains exclusive access to, and control and ownership of, the medical records of each patient of the optometrist.

NAC 636.240 Agreements to lease between licensees and unlicensed persons. (NRS 636.125, 636.372) Except as otherwise provided in NRS 636.347, an agreement between a licensee and a person who is not licensed pursuant to the provisions of chapter 636 of NRS for the leasing of a building or a part thereof for use in the licensee's practice must not include a provision that:

1. Authorizes the person who is not licensed to exercise control over the operation of the licensee's practice or his or her employees in violation of the provisions of chapter 636 of NRS.

2. Authorizes the person who is not licensed to share in the profits of the licensee's practice in violation of the provisions of chapter 636 of NRS.

3. Authorizes the person who is not licensed to have access to the medical records of the licensee's patients.

4. Authorizes the licensee to locate his or her office in a part of the building where the person who is not licensed conducts business without providing a clear separation between the licensee's office and the business of the person who is not licensed.

5. Prohibits the licensee from having access to his or her office, equipment or records at any time.

6. Except as otherwise provided in NRS 636.372, authorizes or requires the amount of rent to be determined on any basis other than the fair rental value of the building or a part thereof to be leased.

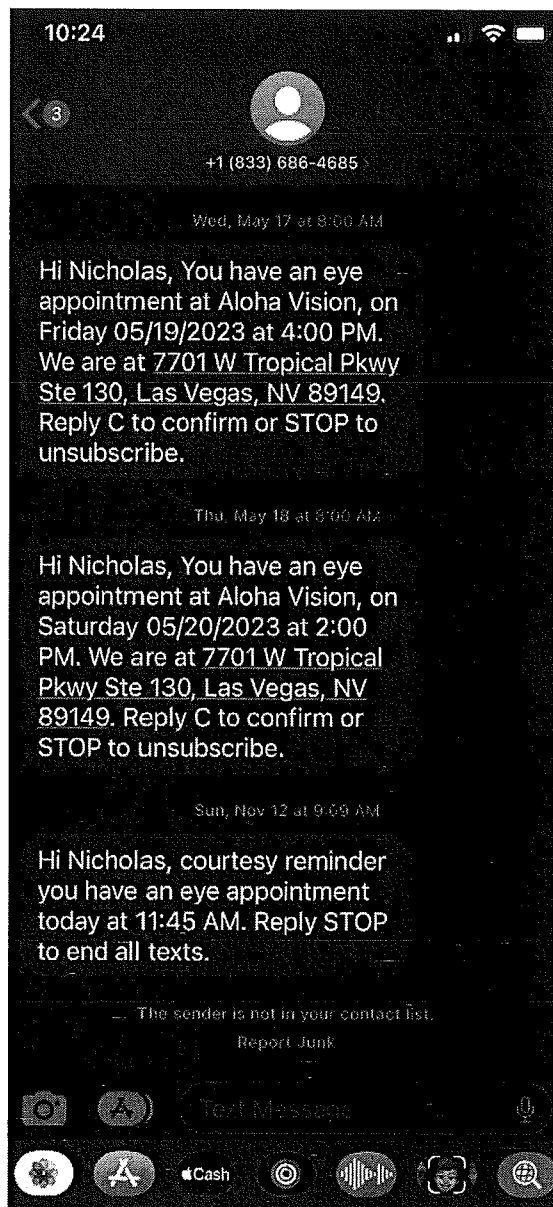
7. Violates any provision of NRS or NAC which relates to the practice of optometry.

NAC 636.250 Separation between office of optometry and other businesses required. (NRS 636.125, 636.300) A licensee who locates his or her office in a part of a building where a person who is not licensed pursuant to the provisions of chapter 636 of NRS conducts business shall construct and maintain a partition or wall in such a manner as to ensure a clear separation between his or her office and the business of the person who is not licensed.

Questions:

Is the below verbiage compliant with NRS/NAC 636 when those do NOT mention that the address is at a commercial business, e.g., VisionWorks?

If not compliant, then wouldn't changing the verbiage to include, e.g., "your appointment at VisionWorks" or the email coming from @visionworks.com violate NRS/NAC 636?



Online appointment successfully created

AA

Aloha Vision Appointments <websites@eyefinity.com>

11/15/2023 10:04 PM



To: Centennial@alohavisionlv.com

You have been scheduled for an eye appointment at Nov 16, 2023 11:30:00 AM, at the office Aloha Vision, LLC with Kristin Difuntorum-Inouye. Thank you for your business.

If you have questions please visit our website at: www.alohavisionlv.net. Please do not reply to this email. Replies to this message are routed to an unmonitored mailbox.

NOTICE: This message is intended only for the individual to whom it is addressed and may contain information that is confidential or privileged. If you are not the intended recipient, or the employee or person responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use is strictly prohibited. If you have received this communication in error, please notify the sender and destroy or delete this communication immediately.

Materials for Agenda Item

No. 7

NEVADA STATE BOARD OF OPTOMETRY



MARIAH SMITH, O.D.
Board President

STEPHANIE LEE, O.D.
Board Member

Post Office Box 1824
Carson City, Nevada 89702
Telephone: (775) 883-8367
Facsimile: (775) 305-0105
E-Mail: admin@nvoptometry.org

ADAM SCHNEIDER, ESQ.
Executive Director

JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

[Redacted]
via email only

Re: NSBO Complaint# 23-09
Patient: [Redacted]

Dear Dr. [Redacted]:

This office has received information and a complaint alleging your care and treatment of the above-referenced patient may have been unprofessional as defined in Nevada Revised Statute (NRS) 636.295 and Nevada Administrative Code (NAC) 636.230. It is alleged:

1. On October 22, 2022, the patient presented to you at [Redacted] for purposes of a contact lens examination/prescription.
2. After preliminary testing, during your own examination you told the patient "I was not advised that you are here for a contact lens evaluation/prescription only," and "We do not need customers like you, leave."
3. You then terminated the examination.
4. Despite your termination of the examination, your office billed the patient \$155.00 for "Design Fit/Follow up."
5. Despite your termination of the examination, your office involved Summit Collection Services which has placed the patient's employer [Redacted] into its pre-legal department for collection of a debt.

Pursuant to NRS 636.310(3), upon presentation of the allegations with anonymous identities of the complainant and yourself, the Board has authorized additional investigation. Therefore in order to determine whether or not there has been unprofessional conduct in violation of NRS/NAC 636, please provide a written response to each allegation noted above, as well as a full and complete copy of your healthcare records, billing, invoices, and communications to and from the aforesaid patient. Please include any further information you believe would be useful for the Board to make a determination in this matter.

NEVADA STATE BOARD OF OPTOMETRY



MARIAH SMITH, O.D.
Board President

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Board Member

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ADAM SCHNEIDER, ESQ.
Executive Director

JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

Your reply to director@nvoptometry.org is due on or before 21 days from the date of this correspondence, i.e., **November 22, 2023**. Should the records be voluminous, usage of Dropbox or ShareFile or the like is encouraged.

Please return the healthcare records and billing with the signed Custodian of Records Declaration, enclosed herewith. If you are not the custodian of records, please indicate where the healthcare records can be obtained.

The Nevada State Board of Optometry investigates all information received concerning possible violations of NRS/NAC 636. This letter is not to be construed as a determination as to whether or not there has been a violation of such laws until a thorough investigation is completed. This correspondence is sent pursuant to NRS 636.305(2) and NRS 636.310(3), and the accompanying subpoena is sent pursuant to NRS 636.141. As a licensee subject to an investigation, you are required by law to provide the requested information.

Please be advised that if the particular allegations referenced above did occur, and depending on the facts and circumstances, then you may have violated the law, specifically including but not limited to NRS 636.295(8)-(9) and NAC 636.230.

Respectfully,

/s/ Adam Schneider
Adam Schneider, Esq.
Executive Director

Dear Adam Schneider:

As I recall, this patient was acting very strange, he was rude, agitated, abusive and obnoxious. After the exam was completed, and in the process of finishing the contact lens fit, he walked out of the office without paying the exam fee or contact lens fitting fee. We mailed him a statement. He refused to pay. Our computer system sends out a statement every month. On November 29 , 2022 we received a threatening and quite disturbing letter from him (a scanned copy is attached).

His chart notes and all relevant papers have been scanned and attached in this email. I am also sending a hard copy in the mail.

In this complaint, he makes several false statements. The reply to each accusation is in red below.

1. *Patient presented for purposes of a contact lens examination/prescription.* As is noted, patient was aware that we needed to do a comprehensive eye exam before proceeding to contact lens fitting which would be a separate fee.

2. *"I was not advised that you are here for a contact lens evaluation/prescription only,"* is false. As it was noted under Chief Complaint, he wanted to update his contact lenses. He had been to several other doctors. He wanted me to correct his contact lens prescription but did not want me to know what that prescription was. I evaluated the fit of his contact lenses and determined I would re fit him in new lens design and power.

2. *"We do not need customers like you, leave."* again false. He ran out of the contact lens room, gave us the finger, and walked out of the office without paying his office visit fee.

3. *"You then terminated the examination".* The exam was not terminated by me. *He* was the one who walked out.

4. *"Despite your termination of the examination, your office billed the patient \$155.00 for "Design Fit/Follow up."* we spent 45 minutes during fitting of the contact lenses. He acted frustrated and quite abusive to the technicians.

5. *Despite your termination of the examination, your office involved Summit Collection Services which has placed the patient's employer Realty of Incline Village into its pre-legal department for collection of a debt.* Again, the exam was terminated by him. He then proceeded to walk out of the office. He did not pay for his examination, nor for contact lens fitting. We spent time for the visit and we need to be compensated for our time.

I am attaching a copy of the chart notes and billing statement. I have highlighted the Chief Complaint, contact lens trials design and power. Please let me know if you need any further information.

11/02/2023

Patient Notes

12:52:00 PM

Notes

Pt needs to pay his bill, he walked out on exam without paying, if he doesn't pay we need to send to collections per dr. [REDACTED] 10/21/22

PT SENT TO COLLECTIONS PER DR [REDACTED] 10/21/22 [REDACTED]

Pt does not have his medicare card, told pt he will be self pay today pt is ok and is fine with \$159 exam plus contact lens fitting fee - 10/21/22 [REDACTED]

EXAMINATION RECORD

[REDACTED] O.D.
[REDACTED]
[REDACTED]
[REDACTED] FAX: [REDACTED]

For: [REDACTED]
Exam Date: 10/21/2022
Print Date: 11/01/2023 04:56 PM
DOB: [REDACTED] Age: 65
SSN: [REDACTED] Occupation: N/A
Address: [REDACTED]
City: [REDACTED]
Phone: [REDACTED]
Gender: Male Race: White

REASON FOR VISIT

EXAMINATION: Eye Health and Vision Exam with Contact Lenses
EXAM TECHNICIAN/SCRIBE: [REDACTED]
OCCUPATION: N/A
Visit Location: Office

CHIEF COMPLAINT

CHIEF COMPLAINT: Got hit in the head with a beer bottle on 07/16/22 and the lens in his RT eye moved, sees a retinal specialist at UCSF, saw him a week ago, annual exam, saw another eye doctor yesterday for CL but he says "they blew his Rx" so he wants his Rx checked again to get a proper one, does not want to show us his current Rx, Saw [REDACTED] yesterday and got CL, right lens is not working.

HISTORY PRESENT ILLNESS (HPI)

OCULAR COMPLAINT: CHIEF COMPLAINT: The patient reports they have blurred vision.
LOCATION: It affects vision at all distances. OD>OS
QUALITY: The symptoms have worsened.
SEVERITY: 5 (10 Being worst)
DURATION: The symptoms are constant in duration.
ONSET: Last 3 months.

PATIENT HISTORY

OCULAR HISTORY: No ocular history reported except: None reported unless otherwise indicated:.
MEDICAL HISTORY: No medical history reported except: None reported unless otherwise indicated:.
SYSTEMIC SURGICAL HISTORY: No systemic surgical history reported except: None reported unless otherwise indicated:.
SYSTEMIC FAMILY HISTORY: None reported unless otherwise indicated:.
OCULAR SURGICAL HISTORY: No ocular surgical history reported except: Retinal vein occlusion 2004 sees a Dr at UCSF.
OCULAR FAMILY HISTORY: None reported unless otherwise indicated:.
OCULAR MEDICATIONS: No ocular medications are currently used except: Clear Eyes, No known ocular medication allergies.
SYSTEMIC MEDICATIONS: No systemic medications are currently used except: No known systemic medication allergies.
SOCIAL HISTORY: No tobacco use reported, No counseling given regarding tobacco use, No reported use of alcohol, No reported use of narcotics, No history of sexually-transmitted disease.
SPECTACLE Rx STATUS: Bilateral: Eyewear Hx: No current Rx.
CONTACT LENS Rx STATUS: Contact Lenses Hx:

Brand of Lenses:

Wearing Schedule (DW / EW): first time wearer

REVIEWED HISTORY: I have reviewed this patient's history encounter form. Medication reconciliation performed for transition of care.

REVIEW OF SYSTEMS

REVIEW OF SYSTEMS: No reported disorders or current medical treatment of: Allergy Cardiovascular Constitutional Ears,nose,mouth,throat Endocrine Gastrointestinal Genitourinary Hematologic / Lymphatic

Patient: [REDACTED] - Exam Date: 10/21/2022 - Page: 2

Immunologic Integumentary / Skin Musculoskeletal Neurologic Psychiatric Respiratory Unless otherwise noted below.

ALLERGY: None reported unless otherwise indicated:

CARDIOVASCULAR: None reported unless otherwise indicated:

CONSTITUTIONAL: None reported unless otherwise indicated:

ENDOCRINE: None reported unless otherwise indicated:

GASTROINTESTINAL: None reported unless otherwise indicated:

GENITOURINARY: None reported unless otherwise indicated:

HEAD: None reported unless otherwise indicated:

HEMATOLOGIC/LYMPHATIC: None reported unless otherwise indicated:

IMMUNOLOGIC: None reported unless otherwise indicated:

INTEGUMENTARY: None reported unless otherwise indicated:

MUSCULOSKELETAL: None reported unless otherwise indicated:

NEUROLOGICAL: None reported unless otherwise indicated:

PSYCHIATRIC: None reported unless otherwise indicated:

RESPIRATORY: None reported unless otherwise indicated:

REVIEWED ROS: I have reviewed this patient's ROS encounter form.

PRESENTING FINDINGS

UNAIDED ACUITIES:

RT: DVA 20/40-- NVA NR

LT: DVA 20/25 - NVA NR

BI: DVA NR NVA NR

VISION

VERTEX DISTANCE: 13.75mm

WORKING DISTANCE: 15.75"

K-READINGS:

RT: 43.25 @ 179 Steep 43.75 @ 89

LT: 43.50 @ 6 Steep 44.00 @ 96

PD's:

Dist IPD: 64.0

Near IPD: 60.0

CONTACT LENS TRIAL OBSERVATIONS: Trial #1: Pt spend 45 minutes with a tech, trying to put contact lens in his eyes, he started yelling at the techs, walked out of the room, rant out of the office without paying exam fee or contact lens fee

NOTES:

AUTO REFRACTION:

RT: -1.00 -0.25 x 022

LT: -0.50 -0.25 x 014

MANIFEST:

RT: -1.00 -0.25 x 020 Add: +2.50 DVA: 20/20

LT: -0.50 -0.25 x 010 Add: +2.50 DVA: 20/20

TRIAL CONTACT LENS Rx: #1

RT: Ultra 6 pack -1.00 BC: 8.6 Clear

LT: Ultra 6 pack -0.50 BC: 8.6 Clear

EXAMINATION

BLOOD PRESSURE / PULSE: 127/77 83

TONOMETRY:

RT: 13.0 mmHg LT: 13.0 mmHg Test: Non-Contact Time: 4:47 PM Category: Examination

RT: 13 mmHg LT: 13 mmHg Test: Non-Contact Time: 04:29 PM Category: Pre-Test

C/D RATIO OBSERVATIONS: Does follow ISNT rule unless otherwise indicated:

CONFRONTATION FIELDS OBSERVATIONS: Fields were found to be full in all quadrants.

EXTRAOCULAR MUSCLES: Bilateral: Ocular motility assessment; full and unrestricted. Pursuits, smooth and accurate.

EYELASHES: Bilateral: Slit lamp observations include: Eyelashes are normal.

EYELIDS: Bilateral: Slit-lamp observations include: Eyelids are normal with complete closure upon blink.

EYELID LESIONS: Bilateral: Slit-lamp observations include: No lesions of the eyelid(s) are present.

LACRIMAL SYSTEM: Bilateral: The lacrimal system appears normal. No excessive discharge is noted. No redness is noted.

PUPILS: Bilateral: Slit lamp observations include: PERRLA. No afferent pupillary defect noted.

HEADACHE: Bilateral: Normal ocular exam.

NEUROLOGY: Bilateral: No diplopia reported.

ORBIT: Bilateral: The orbit is normal.

HEAD and NECK: Facial findings are normal.

CORNEA: Bilateral: Slit lamp observations include: Corneal epithelium, stroma, endothelium, tear film, clear and healthy. Epithelium fully intact without evidence of irregularities. Corneal stroma is clear and free of edema or defects. No infiltrates are present. Endothelium free of deposits and guttata.

CONJUNCTIVA: Bilateral: Slit lamp observations include: Bulbar and palpebral conjunctiva are healthy and white.

CONJUNCTIVAL GROWTHS: Bilateral: Slit lamp observations include: No conjunctival growths, elevations, or pigmentations are noted.

SCLERA: Bilateral: Slit lamp observations include: Sclera is normal.

IRIS: Bilateral: Slit lamp observations include: The iris appears healthy with normal anatomy and convexity.

LENS: Bilateral: Slit lamp observations include: Lens, both capsules, cortex, and nucleus are normal for age.

CATARACT: Bilateral: Mild opacification exists.

ANTERIOR CHAMBER: Bilateral: Slit lamp observations include: Chambers are deep with no evidence of cells or flare.

VITREOUS: Bilateral: Slit lamp observations include: The vitreous is normal.

OPTIC NERVE: Bilateral: Slit lamp examination: Optic disc appears normal.

MACULA: Bilateral: The macula appears flat with no abnormalities.

CHOROID: Bilateral: Choroid appears flat and normal.

RETINA: Bilateral: Retina is flat, attached and normal.

RETINA - VASCULAR: Bilateral: No drusen, exudate, hemorrhages or evidence of retinopathy, healthy retinal vasculature. No retinal hemorrhages noted.

DISPOSITION: Patient is pleasant and sociable.

ORIENTATION: Patient is fully alert to time, place and person.

IMPRESSION(S):

Bilateral: Combined cataract

Myopia

Astigmatism

Presbyopia

PLAN

TREATMENT CATARACT: Bilateral: Monitor condition as directed.

SPECTACLE PLAN: Bilateral: Rx spectacles.

NOTES: Pt spent 45 min in CL room, extremely rude, yelled at techs, gave us the finger and walked out of the office without paying exam fee or CL fitting training fee. Date-time: 10/21/2022 4:59:00 PM By: [REDACTED]

PATIENT MANAGEMENT

PRINTED Clinical Summary Report: 10/21/2022 17:03

PRINTED Patient Report: 10/21/2022 17:03

COUNSELING: Counseling has been provided to review this patient's case and discuss options for treatment.

COUNSELING / EDUCATION: I have verbally discussed my clinical findings and recommendations in detail with this patient and/or parents. They acknowledge that they do not have additional questions.

ORDERS:

Recall on or about 10/21/2023: Examination: Annual Eye Examination Entered by: [REDACTED] [Active] on 10/21/2022 By: [REDACTED]

PROFESSIONAL CORRESPONDENCE: 10/21/2022 5:03:16 PM Auto Letter

ATTENDING ATTESTATION: As attending physician, I have directly participated in the care of this patient and present during the patient's care. I have reviewed and agree with the findings and recommendations documented and conducted direct examination when appropriate.

ELECTRONIC SIGNATURE: Electronically Signed By: [REDACTED] on 10/21/2022 17:03 PM.

DIAGNOSIS:

H25.813 Combined forms of age-related cataract, bilateral

H52.13 Myopia, bilateral

H52.223 Regular astigmatism, bilateral

H52.4 Presbyopia

PROCEDURE:

S0620 Ophthalmological Exam w/ Refracti

1036F Current tobacco non-user

G9903 Patient Screened for Tobacco Use, Non Tobacco User

92310 Design Fitup

Patient: [REDACTED] - Exam Date: 10/21/2022 - Page: 4

Completed Exam: [REDACTED] OD

Date: 10/21/2022

Materials for Agenda Item

No. 8

See separate pdf(s).

Materials for Agenda Item

No. 10

NRS 281.110

1. The offices of all state officers, departments, boards, commissions and agencies must maintain not less than a 40-hour workweek.

2. Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.

3. The offices of all state officers, departments, boards, commissions and agencies must physically post the days and hours of operation at the office. If the days or hours of operation for the office change, the new days and hours of operation must be:

- (a) Posted physically at the office;
- (b) Posted on the website of the office, if any; or
- (c) Otherwise noticed publicly,

at least 30 days before the change becomes effective.

Excerpt from 9/20/2023 Board Meeting Minutes:

Executive Director Schneider asks do we have to keep a physical office pursuant to NRS 281.110. Deputy Attorney General Bordelove, Esq. will do more research and see what some of the other Boards are doing and report back if a smaller Board like NSBO needs a physical office or rather needs to be available by phone 40 hours a week and a place to meet membership or the public if needed by appointment only.

State of Nevada
Professional and Occupational Licensing Boards

Administrative Collaborative

Preface State of Nevada professional and occupational licensing Boards (Boards) are funded solely from the fees received from the professions they regulate. The Boards are exempt from the State Budget Act (NRS 353.005) and receive no funding from the State General Fund.

The Boards oversee various occupations and professions and are charged with the protection of the public health, safety and welfare of the citizens in Nevada. The Boards provide the public and practitioners a means by which they can pursue administrative legal recourse, in cases of questionable actions or practice.

The Boards independently conduct business in accordance with legislative, state and internal directives. They are charged with compliance with existing and new legislative mandates, state administrative requirements and establishing internal management systems. Small Boards face challenges due to limited funding and staff resources.

The Boards are governed by additional laws and legislation outside their specific professions NRS sections; and must adhere to those requirements in conducting their business and operations. A partial listing of applicable laws include but is not limited to the following:

Title 17 State Legislative Department – NRS 218G Legislative Audits;

Title 18 State Executive Department - NRS 232A Appointments by the Governor to Public Bodies, NRS 232B Legislative Review of Public Agencies, NRS 233B Nevada Administrative Procedures Act

Title 19 Miscellaneous Matters Relating to Government and Public Affairs - NRS 241 Meetings of State and Local Agencies (Open Meeting Law)

Title 23 Public Officers - NRS 281 General Provisions, NRS 281A Ethics in Government; NRS 282 Official Bonds and Oaths and NRS 283 Resignations, Vacancies and Removals

Title 54 Professions, Occupations and Business - NRS 622 General Provisions, NRS 622A Administrative Procedures and NRS 629 Healing Arts

In addition to State laws, the Professional and Occupational Licensing Boards have the responsibility to adhere to specific requirements contained in the State of Nevada Administrative Manual (SAM).

Whereas, Professional and Occupational Licensing Boards have varying levels of experienced executive staff who may benefit from opportunities for collaboration with experienced resources in administration of professional and occupational regulatory Boards; and

Whereas, collaboration efforts may include but not be limited to:

- Consultation with experienced personnel working with professional and occupational regulatory Boards;
- Joint training opportunities for Board members and staff;
- Consulting on administrative requirements, and reporting of Board activities;
- Sharing of best practices and processes, procedures and administrative manuals;
- Reviewing current and proposed legislation pertaining to professional and occupational licensing Boards as a whole;
- Any other matter deemed pertinent to the Boards.

Whereas, it has been determined that it is in the best interests of the State of Nevada and Professional and Occupational Licensing Boards to enter into an Administrative Collaborative in order to provide a cost effective and efficient means to enhance collaborative efforts and establish a structured means by which Professional and Occupational Licensing Boards may increase adherence to state and legislative requirements and strengthen the Professional and Occupational Licensing Boards' administrative and oversight functions.

There is hereby established the ***“Professional and Occupational Licensing Boards, Administrative Collaborative”*** comprised of the Executive Directors or designated personnel of each participating Board who shall be authorized to represent their respective Boards' interests as participating Professional and Occupational Licensing Boards.

Participation in the Administrative Collaborative may be terminated by any of the parties, at any time upon 30 days written notice.

Now therefore in consideration thereof, the ***“Administrative Collaborative”*** shall become effective upon approval by a minimum of three (3) Professional and Occupational Licensing Boards as evidenced by signature below.

Board of Optometry

Authorized Signatory

Dated

**State of Nevada
Board of Occupational Therapy**

**6170 Mae Anne Ave, Suite 1, Reno, Nevada 89523
Phone (775) 746-4101 / Fax (775) 746-4105**

**Board Administrative Office Co-Working Agreement
Board of Optometry**

Preface State of Nevada regulatory Boards are funded solely from the fees received from the professions they regulate and receive no funding from the State general fund. Small Boards may not have sufficient funding to maintain and lease administrative offices or staff those offices pursuant to NRS 281.110. (NRS **281.110** State offices to maintain minimum 40-hour workweeks; variable schedules for workweek; posting of days and hours of operation.)

Whereas, it has been determined the use of remote methods of operation is a feasible alternative to full-time physical on-site administration of Boards' duties and responsibilities; and

Whereas, the Board of Occupational Therapy has an established administrative office located at 6170 Mae Anne Ave, Suite 1, Reno, Nevada 89523; and

Whereas, the Board of Occupational Therapy has co-working space and general office resources available; and

Whereas, the **Board of Optometry** wishes to establish an administrative office physical location pursuant to NRS 281.110; and

Whereas, it has been determined that it is in the best interests of the **Board of Optometry** and the **Board of Occupational Therapy** to collaborate through an Administrative Office Co-Working Agreement to provide access to the public to the Boards' services.

Now Therefore, pursuant to the authority of NRS 640A.100, and NRS 640B.220, the **Board of Occupational Therapy** and the **Board of Optometry** do hereby enter into this Board Administrative Office Co-Working Agreement as follows:

Compensation

The **Board of Optometry** will pay a fixed fee established annually. The fixed fee will be based upon actual lease costs and general operating expenses. The fixed fee will be established based upon each participating **Boards'** physical staff occupancy needs, as may be adjusted from time to time. The fixed fees shall reasonably reflect the actual costs incurred by the Board of Occupational Therapy.

The fixed fee charged to the Board of Optometry will be \$ 650.00 per fiscal year.

Personnel

Nothing in this Agreement shall limit or restrict the authority of any Board to hire an Executive Director and other personnel, establish compensation or benefits, or delegate duties and responsibilities to such. All direct personnel costs and benefits shall be the responsibility of the respective Boards.

Scope of Agreement

Nothing in this Agreement shall limit or restrict the authority vested to any Board in the performance of their duties and functions as stated in the Boards' laws, Nevada Revised Statutes (NRS), and regulations, Nevada Administrative Code (NAC).

Administrative Office Co-Location Terms and Conditions

The Board of Occupational Therapy will provide:

- a. **X** Physical Administrative Office location;
- b. **X** Public access location for licensees, applicants and members of the public;
- c. **X** Furnished co-working/office space, when required;
- d. **X** Scheduling of office occupancy and conference room access;
- e. **X** Teleconference and video/TV equipment, as needed;
- f. **X** Internet Service and wireless network access;
- g. **X** General office supplies;
- h. **X** Access to office copier/fax/scanner;
- i. **N/A** Postage meter, postage usage to be reimbursed by participating Board
- j. **N/A** Limited filing cabinets and/or file space.

The Board of Optometry will provide:

- a. **X** Laptop and/or portable computer equipment to transact business;
- b. **X** Office 365 or comparable program for email and remote access to Board documents;
- c. **X** Board specific direct services, supplies and office signage;
- d. **X** Off-site records storage of paper files and documents;
- e. **X** Coordination of on-site staffing hours with the OT Board, not to exceed 5 hours per month;
- f. **N/A** Back-up staff for office coverage, if requested by the OT Board.

Board of Occupational Therapy Lease Agreement

Any subsequent renewal of the lease agreement by the Board of Occupational Therapy, or relocation of the Board of Occupational Therapy administrative offices shall not affect the terms of this agreement, unless agreed to by both parties and upon 90 days written notice of intent to revise this Agreement.

Renewal & Termination of Agreement

This Agreement shall automatically renew, effective on July 1st of each fiscal year, unless terminated in writing pursuant to this section.

This Agreement may be terminated by either party at any time upon 90 days written notice. If termination of the Agreement is effective prior to the end of a fiscal year, the fixed fee cost for that fiscal year will be pro-rated.

Now therefore in consideration thereof, this agreement shall become effective **December 1, 2023**, upon approval by the respective Boards as evidenced by signature below.

Board of Occupational Therapy

Board of Optometry

Executive Director 12/1/2023
Dated

Authorized Representative Dated

Bill Date	Due Date	Billing Days	Current Charges	Amount Due
11/06/2023	11/27/2023	29	\$102.14	\$102.14
10/06/2023	10/25/2023	29	\$56.35	\$56.35
09/07/2023	09/26/2023	33	\$30.10	\$30.10
08/08/2023	08/28/2023	28	\$30.10	\$30.10
07/10/2023	07/31/2023	30	\$39.06	\$39.06
06/08/2023	06/27/2023	33	\$85.66	\$85.66
05/09/2023	05/30/2023	28	\$152.65	\$152.65
04/10/2023	05/01/2023	29	\$305.42	\$258.69
03/10/2023	03/29/2023	30	\$376.01	-\$46.73
02/08/2023	02/27/2023	31	\$422.74	\$422.74
01/10/2023	01/30/2023	32	\$377.66	\$377.66
12/07/2022	12/26/2022	33	\$355.49	\$231.88
11/04/2022	11/23/2022	29	\$111.77	-\$123.61
10/06/2022	10/25/2022	32	\$38.41	-\$235.38
09/07/2022	09/26/2022	29	\$30.10	-\$273.79
08/08/2022	08/29/2022	29	-\$270.01	-\$303.89
07/08/2022	07/27/2022	30	\$36.06	\$33.29
06/08/2022	06/27/2022	32	\$80.82	\$2.77
05/09/2022	05/31/2022	29	\$147.25	\$78.05
04/08/2022	04/27/2022	29	\$147.33	-\$69.20
03/10/2022	03/29/2022	32	\$258.93	\$216.53
02/08/2022	02/28/2022	29	\$267.25	\$42.40
01/10/2022	01/31/2022	33	\$311.16	\$224.85
12/08/2021	12/27/2021	32	\$160.36	\$86.31

Aargon Agency, Inc.
8668 Spring Mountain Road., Suite 110
Las Vegas, NV 89117-4113
(800) 990-4765 from 8am EST to 7pm PST, Monday-Friday,
8am EST to 12pm PST Saturday, <http://payaargon.com>

To: ACCOUNTS PAYABLE NEVADA STATE
BOARD OF OPTOMETR
PO Box 1824
Carson City NV 89702-1824

Reference: 4602-019201

Date: 08/17/2023

Aargon Agency, Inc. is a debt collector. We are trying to collect a debt that you owe to NV Energy. We will use any information you give us to help collect the debt.

Our information shows:

You had services from NV Energy with account number
2862680818386.

As of June 27, 2023, you owed: \$ 201.81

Between June 27, 2023 and today:

You were charged this amount in interest	+	\$ 0.00
--	---	---------

You were charged this amount in fees:	+	\$ 0.00
---------------------------------------	---	---------

You paid or were credited this amount toward the debt:	-	\$ 0.00
--	---	---------

Total amount of the debt now:		\$ 201.81
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How can you dispute the debt?

- **Call or write to us by September 26, 2023, to dispute all or part of the debt.** If you do not, we will assume that our information is correct.
- **If you write to us by September 26, 2023, we must stop collection on any amount you dispute until we send you information that shows you owe the debt.** You may use the form below or write to us without the form. You may also include supporting documents.

What else can you do?

- **Write to ask for the name and address of the original creditor, if different from the current creditor.** If you write by September 26, 2023, we will stop collection until we send you that information. You may use the form below or write to us without the form.
- **Go to www.cfpb.gov/debt-collection to learn more about your rights under federal law.** For instance, you have the right to stop or limit how we contact you.

RECEIVED

AUG 24 2023

 **Notice:** See reverse side for important information.

Mail this form to:
Aargon Agency, Inc.
8668 Spring Mountain Rd., Suite 110
Las Vegas, NV 89117-4113

RETURN SERVICE REQUESTED



Date: 08/17/2023

29CDARAC02DL 1 518688807

How do you want to respond?

Check all that apply:

- ☐ **I want to dispute the debt because I think:**
 - ☐ This is not my debt.
 - ☐ The amount is wrong.
 - ☐ Other (please describe on reverse or attach additional information).
- ☐ **I want you to send me the name and address of the original creditor.**
- ☐ **I enclose this amount :** \$ _____

Mail this form to:

AAI
8668 SPRING MOUNTAIN RD., STE. 110
LAS VEGAS, NV 89117-4113



Make your check payable to Aargon Agency, Inc. Include reference number 4602-019201.


ACCOUNTS PAYABLE NEVADA STATE BOARD OF
OPTOMETR
PO Box 1824
Carson City NV 89702-1824

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1 of 1

Materials for Agenda Item

No. 11

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

September 20, 2023

1. **Action Item 1. Roll Call, Call to Order, Welcome, Introductions.** President Mariah Smith, O.D. opened the live meeting at 6:33 p.m. Board members, Jeffrey Austin, O.D., Stephanie Lee, O.D., and Drew Johnson were present. Also attending were Executive Director Adam Schneider, Nancy Padilla, Licensing Specialist and Deputy Attorney General Rosalie Bordelove, Esq.
2. **Public call in instruction.** Pursuant to AB219, public telephonic access number 669-444-9171 was read into the record.
3. **Item 2. Public Comment.**
 - A. Dr. Daniel Rowan, OD requested clarification regarding custodial ownership of records in statutes. Dr. Rowan questioned if a professional entity or larger corporation could claim ownership of patient medical records. Dr. Rowan was directed to put concerns into a letter to the Executive Director and can be added to agenda for the next meeting for board discussion if needed.
 - B. Dr. Kenneth Kopolow, OD requested receipt of a complaint that he submitted to the Board for a licensee 5-6 weeks ago. Executive Director Schneider confirmed he had not received the complaint and instructed him to resubmit the complaint to his email directly.
4. **Action Item 3. Election of Board President, Vice President, and Financial Officer re FY2023-24.** Mariah Smith, OD nominated Drew Johnson as Financial Officer. Drew Johnson accepted. No other nominations. All board members in favor. None opposed. Mariah Smith, OD nominated Jeffrey Austin, OD as Vice President. Jeffrey Austin, OD accepted. No other nominations. All board members in favor. None opposed. Drew Johnson nominated Mariah Smith, OD as Board President. No other nominations. All board members in favor. None opposed.
5. **Action Item 4. Consideration of draft and approval of Board Meeting Minutes of June 22, 2023, Meeting.** Member Johnson moved for approval of the Minutes as presented. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.

6. **Action Item 5. Executive Director update on Board banking, and possible Motion for Drs. Young and Austin removed from banking access and replaced with Dr. Smith, Public Member Johnson, and Executive Director Schneider.** Executive Director Schneider explains two tax IDs previously used by the Board have been streamlined into one tax ID and one bank account at Nevada State Bank. The Board will still maintain an account at Heritage Bank to avoid exceeding FDIC insured amounts. Mariah Smith, OD moves to remove Drs. Young and Austin from banking access and replace with Dr. Smith, Public Member Johnson, and Executive Director Schneider. Stephanie Lee, OD seconds the motion. All Board members in favor, none opposed. Motion carries.
7. **Action Item 6. NRS/NAC clarification re OPAC certification.** Executive Director Schneider asks for clarification among the Board regarding OPAC recertification. In the event that a Nevada licensee with OPAC certification allows their license to lapse and later wishes to reapply, do they need to redo their 40 hours of training with an ophthalmologist. Board member Jeffrey Austin, OD motions that the 40 hours of training is valid for the life of the optometrist and does not need to be done again for re-licensure. Also, if 40 hours of training was completed at another state, then for a first time Nevada license application the out of state training is accepted in Nevada and they do not need to complete any additional OPAC training. All Board members in favor, none opposed. Motion carries. Mariah Smith, OD asks to revisit this at the next legislative session to possibly make an OPAC by endorsement similar to the Glaucoma by endorsement form for a simpler, more streamlined application process. Executive Director Schneider requests motion that pursuant to 636.260, the Board is exercising its authority to find good cause in order for the OPAC certification to be valid for the life of the licensee. Mariah Smith, OD motions to add OPAC certification under NRS 636.260 at the next legislative session. Jeffrey Austin, OD seconds the motion. All board members in favor. None opposed. Motion carries.
8. **Action Item 7. NRS/NAC clarification re Drug Enforcement Administration CE requirement.** Executive Director Schneider explains the new federal, one time, 8 hour continuing education (CE) requirement for DEA license holders. Membership has reached out asking if the CE requirement can carry over into the NSBO CE requirement, beyond the 2 hours required for licensure. Jeffrey Austin, OD motions because of the short notice to the membership from the DEA to allow the extra hours to all NSBO applicants' OPAC CE requirements regardless of holding a DEA license or not for the cycle ending in February 2024. Stephanie Lee, OD clarifies that the federal DEA-approved CE courses are not necessarily COPE approved and the NSBO will be allowing courses on the DEA-approved course list to count towards the NSBO general CE/OPAC renewal requirement. Stephanie Lee, OD motions that the Board accepts 8 hours of CE on the DEA approved CE course list for licensure and OPAC. Mariah Smith, OD amends the motion to any amount of hours, not limited to 8. Public member Drew Johnson seconds the motion. All Board members in favor, none opposed. Motion carries.
9. **Action Item 8. NRS/NAC clarification re scope of practice for suture removal.** Executive Director Schneider asks for clarification if optometrists can remove skin sutures under 636.025 and discussion on what constitutes a foreign object, and the statutes being

silent on suture removal but prohibiting suture insertion. Jeffrey Austin, OD explains according to statute written closely with ophthalmology, optometrists are allowed to remove sutures. Mariah Smith, OD motions that optometrists can remove sutures. Stephanie Lee, OD seconds the motion. Motion passed unanimously.

10. **Action Item 9. NRS/NAC clarification re COAs' provision of healthcare at optometric offices.** Executive Director Schneider requests clarification on what types of care are allowed or not allowed by a certified ophthalmologic assistant (COA) at an optometrist's office without the optometrist's supervision. More specifically, can a COA remove sutures at an optometry office without supervision. Jeffrey Austin, OD discusses if an OMD is renting space as an independent contractor in an OD office then the COA is employed by the OMD and can follow the instruction of the OMD as directed, whatever that direction may be. Stephanie Lee, OD adds the OD must have a written lease with the OMD defining a clear definition of space. Jeffrey Austin, OD motions that as long as an OMD is working as an independent contractor, when leasing space within an OD office then the COA can perform procedures as directed by the OMD. Stephanie Lee, OD seconds the motion. Motion passed unanimously.
11. **Action Item 10. NRS/NAC clarification re scope of practice and optometric devices.** Executive Director Schneider requests clarification on whether an optometrist can provide electro-epilation/electrolysis of lashes for trichiasis if an ophthalmologist is immediately and physically available for consultation, and similarly for injections for chalazion excision. Board member Jeffrey Austin, OD clarifies that electrolysis is not allowed under any diagnosis for optometrists as it burns tissue. Similarly for chalazion, Dr. Austin clarifies optometrists can only apply topical diagnostics and therapeutics, and cannot inject anything into the eye or tissue. President Mariah Smith requests these topics be added to the next legislative session for possible expansion of scope in regards to optometric devices and injectables. Dr. Jeffrey Austin motions that electro-epilation is disqualified for use by optometrists whether or not a surgeon present, and optometrists cannot inject any substance into the eye or tissue. Mariah Smith, OD seconds the motion. Motion passes unanimously.
12. **Action Item 11. Board policy for licensee duties upon retirement and/or unexpected incapacitation.** Executive Director Schneider drafted a list of procedures for retiring optometrists and family members of unexpectedly incapacitated optometrists complying with NRS 629 to ensure patients are able to get records and continuity of care within reasonable time periods. Mariah Smith, OD motions to add the list to the Board website policy section as guidance. Jeffrey Austin, OD seconds the motion. Motion passes unanimously.

13. **Action Item 12. Board policy for licensee surname change, e.g., reversion to maiden name or change to spouse's surname.** Executive Director Schneider asks the Board if they want some sort of policy for a name change, and if so do they want to implement an administrative fee for the Board changing the name internally. Mariah Smith, OD recalls previous statutes on this topic and will investigate further (subsequently identified as NAC 636.210(1)(a) and NAC 636.215(1)). Dr. Jeffrey Austin motions to keep the name change fee at \$100.00 (\$75.00 for duplicate license + \$25.00 for a duplicate location card), including OPAC and glaucoma certifications. Stephanie Lee, OD seconds the motion. Motion passed unanimously. Dr. Smith suggested revisiting this in an action item at a subsequent board meeting about the Board's position for licensees not practicing under their legal name, and how to locate such licensees when there is a problem. Executive Director Schneider mentions the fee can be added into the fee schedule section of the NACs for the upcoming session.
14. **Action Item 13. 12/2022 online complaint for determination of jurisdiction.** Executive Director Schneider directs the Board to review the redacted complaint in the meeting materials provided and asks if the complaint is under the Board's jurisdiction. Jeffrey Austin, OD would like clarification if the contact lens fitting was actually performed to rule out any possible fraudulent billing. Dr. Smith motions for Executive Director Schneider to investigate further if the contact lens fitting was actually performed, and if it wasn't, was the fitting billed in error, or has fraudulent billing occurred. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.
15. **Action Item 14. Executive Director updates.**
- A. **Status of termination of Thentia purported contract.** Executive Director Schneider explains Thentia's CEO provided written acknowledgement that they are at fault for not delivering a product in a timely manner and are looking into a refund of any monies that have been paid;
 - B. **Forum for NAC 636 revisions set for 10/26/2023.** Mariah Smith, OD suggests providing membership with the approved bill and going through item by item asking for feedback if any of the items need clarification. The meeting will be led by Dr. Smith;
 - C. **Start of licensee renewals for 2024-2026 on Saturday 10/28/2023.** Nancy Padilla reports the renewal application and CE Summary Form has been updated on the website. New location cards have been designed with updated Executive Director information. An email blast and website notification will be sent to membership that renewals are open;
 - D. **NRS 333 Purchasing Division- Certified Contract Manager (NVCCM) Initial Certificate Course completion.** Course was taken by Executive Director Schneider as suggested by Deputy Attorney General Bordelove, Esq. to make sure the Board is compliant under NRS 333 with respect to contracting and their policies.

16. **Action Item 15. Consideration of Agency Budget with review for expenditures for physical office closure and transition to dual remote office locations.** Executive Director Schneider asks do we have to keep a physical office pursuant to NRS 281.110. Deputy Attorney General Bordelove, Esq. will do more research and see what some of the other Boards are doing and report back if a smaller Board like NSBO needs a physical office or rather needs to be available by phone 40 hours a week and a place to meet membership or the public if needed by appointment only.
17. **Item 16. Public Comment.** No public comment was offered.
18. **Action Item 17. Adjournment.** Jeff Austin, O.D. moved to adjourn the meeting. Mariah Smith, O.D. seconded the motion. Motion passed. The meeting adjourned at 7:56 p.m.

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FY 2023 Regular meeting schedule

Thurs. October 26, 2023 – 6:30 pm by Zoom
Tues. November 28, 2023 – 6:30 pm 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 November 28, 2023.

Adam Schneider, Executive Director

Materials for Agenda Item

No. 12

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

October 26, 2023

1. **Call to Order and Roll Call-** President Mariah Smith, O.D. opened the meeting at 6:30 p.m. Board members Jeffrey Austin, O.D., Stephanie Lee, O.D., and Drew Johnson present. Executive Director Adam Schneider present. President Smith described the intent, purpose, and process of NAC regulation drafting.
2. **AB 219 Compliance-** Pursuant to AB219/NRS 241.023, President Smith announced the public telephonic access number of 1-719-359-4580, and Zoom meeting ID 820 5771 1970 and Passcode 478467.
3. **Public Comment-** No public comment was offered, given that Item no.4 of the Agenda is for public comment regarding suggestions for NAC 636 revisions/amendments predicated upon AB 432's passage in June 2023.
4. **Stakeholders' Input-** President Smith opened the floor to the public. No suggestions offered from the public.

President Smith mentioned AB 432's section 16 regarding a licensee reporting disciplinary action to the Board, and that other States' Boards differentiate between a disciplinary action requiring reporting versus an administrative action not requiring reporting. Dr. Smith suggested future discussion for possible differentiation by the Board, consistent with prior Board discussions. Dr. Austin agreed with the need for differentiation to remedy unfairness to the licensee having to report, e.g., untimely CE completion resulting in an administrative fine and National Practitioner Databank entry.

Dr. Austin mentioned AB 432's Section 17 regarding performance of procedures by students (subsection 1) and residents (subsection 2), and the need for NACs on the scope of practice, be it maximum of scope or limitations.

President Smith stated the next Board meeting regarding NAC drafting will be January 24, 2024, and suggested pre-meeting preparations by reviewing AB 432 and the uncodified NAC 636. Director Schneider explained the recent newsletter's hyperlinks and the Meeting Materials included NAC 636 as if it were timely codified from 2019-2020. Director Schneider expressed in his opinion, the Board members are best served to work off of that document as opposed to the unrevised version (aka R066-19).

5. **Public Comment-** No public comment was offered. Director Schneider announced the January 24, 2024 8:00a.m. in-person Board meeting at the Nevada State Business Center, 3300 W. Sahara Ave., Red Rock Room, 4th Floor, Ste. 440, Las Vegas, NV 89102.
6. **Action Item- Adjournment.** Dr. Lee moved to adjourn the meeting. Dr. Austin seconded. Motion passed. Meeting adjourned at 6:46 p.m.

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FY 2023-2024 Regular meeting schedule

Tues. November 28, 2023 – Reg. Bd. Meeting - 6:30p.m. (pst) – phone or 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 November 28, 2023.

Adam Schneider, Executive Director