

NEVADA STATE BOARD OF OPTOMETRY



MARIAH SMITH, O.D.
Board President

JULIE C. ALAMO-LEON, O.D.
Board Member

Post Office Box 1824
Carson City, Nevada 89702
Telephone: (775) 883-8367
Facsimile: (775) 305-0105

ADAM SCHNEIDER, ESQ.
Executive Director

JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

Materials for

April 25, 2024

Board Meeting

NEVADA STATE BOARD OF OPTOMETRY



NOTICE OF PUBLIC MEETING

The Nevada State Board of Optometry will hold a Board meeting on

Thursday, April 25, 2024 beginning at 12:00 p.m. PST

Pursuant to NRS 241.023(1)(c), this meeting is being conducted by means of remote technology only. The public may attend via live stream remotely or telephonically:

<https://us06web.zoom.us/j/89871475470?pwd=KWurSY0xPT5nDNV5paxz52UoO7AbT2.1>

Meeting ID: 898 7147 5470

Passcode: 276684

Telephone: (669) 444-9171 or (669) 900-6833

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.

1. **Call to Order. AB 219 Compliance to 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 1 669 444 9171, the meeting ID is 898 7147 5470, passcode 276684."
2. **Welcome, introductions.**
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 Board Discussion and Possible Action.** NAC 636.670(5) discussion and vote for submission of 1/2024 NAC Workshop results to Legislative Counsel Bureau.
5. **For Board Discussion and Possible Action.** Certificates of Deposit options.
6. **For Board Discussion and Possible Action.** Board of Dispensing Opticians questions re cross-over jurisdiction issues.
7. **For Board Discussion and Possible Action.** Complaint 24-11 hearing scheduling.

8. **For Board Discussion and Possible Action.** Complaint 24-13.
9. **For Board Discussion and Possible Action.** Consideration and approval of March 28, 2024 Board Meeting Minutes.
10. **Public Comment.** No action will be taken at this meeting on any issue presented in Public Comment. Comments are limited to 3 minutes.
11. **For Board Discussion and Possible Action.** Adjournment.

* * * * *

FY 2023-2024 Regular meeting schedule

Thursday 5/30/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 6/27/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

FY 2024-2025 Regular meeting schedule

Wednesday 7/31/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Wednesday 8/28/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

* * * * *

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

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

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

- Nevada State Board of Optometry office, Reno, NV 89523
- Nevada State Board of Optometry website: <https://nvoptometry.org/>
- Nevada Public Notice website: <http://notice.nv.gov>

Materials for Item No. 4 re

- NAC Workshop results list
- ARBO survey results
- NAC 636.670(5) materials
- AOA Prescription Eyeglass regulations 2023 update
- NAC 636.670(5) materials submitted 4-22-24

Proposed elimination of existing NACs

NAC 636.110 “Do not meet the specifications of the American National Standards Institute” defined.
As used in NAC 636.120 to 636.200, inclusive, the phrase “Do not meet the specifications of the American National Standards Institute” means that the ophthalmic products:

1. Were not purchased from a manufacturer or wholesaler who warrants that they meet the most current version of those specifications, if applicable; or
2. Do not meet the most current version of those specifications, if applicable.

NAC 636.130 Posting of signs

1. A licensee shall post a sign at the entrance to any office that is registered with the Board as a practice location of the licensee. The sign must include, without limitation, the licensee’s last name, as it appears on his or her license, the professional designation of the licensee and the hours during which the office is open.
2. A sign posted at a location which is remote from the office must specify, without limitation, the last name of the licensee as it appears on his or her license and his or her professional designation.

NAC 636.150 Ophthalmic products

1.
(b) A notice, “Does not meet the specifications of the American National Standards Institute” if the ophthalmic product does not meet the applicable specifications of the American National Standards Institute.

NAC 636.160 Spectacle lenses

2. A statement that the advertised lenses are clear, tinted or photochromic.
3. A statement that the advertised lenses are glass or plastic, single vision, bifocal or trifocal, that they are occupational or aphakic, and if the lenses are:
 - (a) Bifocal, the advertisement must state the segment size except for executive or dualens types.
 - (b) Trifocal, the advertisement must state the segment size except for executive or dualens and variable focus types.
 - (c) Occupational or aphakic, the advertisement must state that they are lenticular aspheric, lenticular nonaspheric or full-field aspheric.

Proposed edits* to existing NACs

* Final language is subject to the Nevada Legislative Counsel Bureau’s discretion and approval;
strikethrough = proposed deletion; bolded font = proposed addition

NAC 636.142 Broadcast advertisements

1. Any broadcast advertisement placed by an optometrist licensed to practice in this State must include a ~~oral~~ statement of: . . .

NAC 636.160 Spectacle lenses

3. A statement that the advertised lenses are glass or plastic, single vision, bifocal or trifocal **progressive**, that they are occupational or aphakic. ~~and if the lenses are:~~

NAC 636.170 Contact lenses

2. Contact lenses received from a manufacturer in a package containing multiple lenses of the same prescription that are intended to be used as scheduled replacements or as disposable lenses may not be advertised for sale or sold as permanent lenses **in a different replacement schedule as indicated by the Federal Drug Administration or the contact lens manufacturer.**

NAC 636.190 Optometric examinations

An advertisement of an optometric examination, eye examination, vision examination, eye test or vision test must include a specific disclaimer if any of the following services are not included:

- 1. The documentation of the primary reason for which the examination is conducted;**
- 2. A review of the medical history and ocular history of both the patient and his or her immediate family;**
- 3. A review of any medications used by the patient;**
- 4. A review of any allergies of the patient;**
- 5. A review of documentation identifying the patient's primary care physician;**
- 6. General medical observations, including, without limitation, neurological and psychological orientation;**
- 7. Eye pressure;**
- 8. Gross, confrontation or formal visual fields;**
- 9. A basic sensorimotor examination;**
- 10. A complete pupillary assessment, including, without limitation, an examination of the presence of an afferent pupillary defect;**
- 11. Eye alignment;**
- 12. Visual acuities;**
- 13. Keratometry or autokeratometry;**
- 14. Anterior segment examination using a slit beam and magnification, as through a biomicroscope slit lamp, to include ocular adnexa, eyelid, eyelashes, conjunctiva, pupil, cornea, anterior chamber and lens;.**
- 15. A manifest or subjective refraction.**
16. A dilated fundus examination.

NAC 636.210 Restrictions on use of name and place of practice; required display of license; representation as specialist without certification; employer responsible for unprofessional conduct

2. An optometrist shall display his or her license or a duplicate of his or her license to practice optometry and a current renewal card ~~in a conspicuous manner~~ **available upon request** at each office in which he or she practices optometry or has an ownership interest.
4. An optometrist who employs another optometrist **or an employee, technician, or assistant** on a temporary or permanent basis is subject to disciplinary action for any unprofessional conduct of the optometrist **or an employee, technician, or assistant** he or she employs which takes place during the performance of services pursuant to such employment. **Consistent with NRS 636.346, the optometrist has the ultimate responsibility over any conduct, treatment, act, or omission by the optometrist's employee, technician, or assistant, and all responsibility for all care provided to the licensee's patients.**

NAC 636.215 Certificate of registration required to practice under assumed or fictitious name.

5. Not later than ~~10 working~~ **90 calendar** days after any percentage of the ownership of an optometry practice for which a fictitious or assumed name is registered changes, the licensee to whom the fictitious or assumed name is registered must submit a new application for the registration of the assumed or fictitious name.

NAC 636.xxx Licensee fees

3. The following nonrefundable fees:

(q) Legal name change (anytime besides at the time of a license renewal)\$100

NAC 636.xxx(1)(c) “upon service of process of a civil action relating to the practice of optometry is filed against the licensee or the licensee’s optometry business as registered with the Board, or the licensee’s business practicing under an assumed or fictitious name as registered with the Board.”

NAC 636.xxx Continuing Education

6.

(d) For continuing education completed to satisfy the requirements of NRS 636.2881 or subsection 6 of NRS 636.338, the American Medical Association, or its successor organization, as Category 1 **ophthalmology-specific** continuing medical education.

(e) Any ophthalmology residency program that is affiliated with an accredited medical school.

NAC 636.670 Contents

2. The actual materials desired ~~with their ability to transmit oxygen~~

...

4.

(b)

(2) The actual materials desired ~~with their percentage of water content and thickness~~

...

5. For spectacle lenses, a prescription shall be valid for a period of 24 months for patients age 18-65 years old unless the prescriber documents a reason for the shorter period of time.

Proposed new NACs* to AB 432:

* Final language is subject to the Nevada Legislative Counsel Bureau’s discretion and approval.

AB432 - 636 (2023)

AB 432 Section 14- the intent of this section is to also address a licensee’s permanent incapacitation, and the permanently incapacitated licensee’s durable power of attorney, legal guardian as appointed pursuant to NRS 159- Guardianship of Adults.

AB 432 Section 15- The personal mailing address, telephone number, and electronic mail address of the licensee are to be kept confidential within the Board’s internal files absent such information being the licensee’s publicly known mailing address, telephone number or electronic mail address.

AB 432 Section 16- As used in this section, “disciplinary action” means an action resulting in a report to the National Practitioner’s Databank regarding patient care, or a finding of unprofessional conduct as defined in NRS 636.295.

AB 432 Section 17(1)- As used in this section, within the scope of a license means up to the scope of practice of the student’s supervising licensee.

AB 432 Section 17(2)- As used in this section, within the scope of a license means up to the scope of practice of the resident’s supervising licensee.

AB 432 Section 17(3)- As used in this section, the person may provide care up to 10 hours of informing the supervising licensee.

AB 432 Section 17(4)- The intent of this section includes the providing of prescriptions.

AB 432 Section 18- The intent of this section allows the originating licensee or licensee within the originating licensee’s practice group in extenuating circumstances to issue, offer to issue, duplicate, or

extend a prescription for the patient of the originating licensee or the originating licensee's practice group within the immediately preceding two years.

AB 432 Section 19(2)- As used in this section, no synchronous non-comprehensive examination can be conducted unless the licensee has access to the patient's records and contemporaneously reviews such records.

AB 432 Section 19(3)- As used in this section, "access" includes the act of reviewing such information prior to or contemporaneous with the examination. Nothing in this section is meant to prevent a licensee from providing care to a patient whom is already an existing patient within the licensee's practice group of the immediately preceding two years.

AB 432 Section 19(9)(a)- as used in this section, the issuance of a prescription for an ophthalmic lens cannot occur without the licensee performing a synchronous manifest refraction.

As to existing NRS 636*

* Final language is subject to the Nevada Legislative Counsel Bureau's discretion and approval.

NRS 636.145 In a disciplinary hearing, proof of actual injury need not be established.

NRS 636.206(2)(a) As used in this section, "disciplinary action" means an action resulting in a report to the National Practitioner's Databank regarding patient care, or a finding of unprofessional conduct as defined in NRS 636.295.

NRS 636.206(2)(a)(6) As used in this section, "malpractice" is also inclusive of "professional negligence."

NRS 636.215 "1. The purpose of licensing optometrists is to protect the public health and safety and the general welfare of the people of this State. 2. Any license issued pursuant to this chapter is a revocable privilege."

NRS 636.305 "The voluntary surrender of a license, the failure to renew a license or the retirement of a licensee does not preclude the Board from causing a complaint to be investigated, issuing a formal complaint against the licensee, or conducting a disciplinary hearing of a formal charge relating to an alleged ground for disciplinary action set forth in NRS 636.295 conducted in accordance with the provisions of chapters 233B, 622, and 622A of NRS."

Response
Alabama requires that an expiration date be written on all glasses and contact lens prescriptions. Alabama law does not dictate a specific time period for that expiration date. It's left up to the professional opinion of the doctor.
Arizona Response sent separately.
In California , our laws for spectacle prescription and contact lens prescription are found at Business and Professions Code sections 2541.1 and 2541.2, respectively. For spectacle, we say the following, in pertinent part: (b) The expiration date of a spectacle lens prescription shall not be less than two years and shall not exceed four years from the date of issuance unless the patient's history or current circumstances establish a reasonable probability of changes in the patient's vision of sufficient magnitude to necessitate reexamination earlier than two years, or presence or probability of visual abnormalities related to ocular or systemic disease indicates, the need for reexamination of the patient earlier than two years. In no circumstances shall the expiration date be shorter than the period of time recommended by the prescriber for reexamination of the patient. Establishing an expiration date that is not consistent with this section shall be regarded as unprofessional conduct by the board that issued the prescriber's certificate to practice. Unfortunately for question 2, none of those are things that we measure or would otherwise be able to inform about.
This is the D.C. Optometry regulation on the Eyeglass Prescription Expiration Period. There is no mention of insurance coverage for it. 6416 EYEGLOSS PRESCRIPTION EXPIRATION PERIOD 6416.1 An eyeglass prescription shall expire one (1) year after the issue date unless there is a medical reason that warrants a prescription for less than one (1) year. The medical reasons for issuing a prescription for less than one year shall be documented in the patient's medical record. SOURCE: Final Rulemaking published at 55 DCR 12043 (November 21, 2008).
I'm not sure Florida can offer any insight into this question. Florida Statutes have read as follows since before 1997: 463.012 Prescriptions; filing; release; duplication.—(1) A licensed practitioner shall keep on file for a period of at least 2 years any prescription she or he writes. (2)(a) A licensed practitioner shall make available to the patient or her or his agent any spectacle prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 5 years. (b) A licensed practitioner shall make available to the patient or her or his agent any daily wear soft contact lens prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 2 years.
1) Idaho's rule states: Prescription for Spectacles. Prescriptions for spectacles must contain the following: Sphere, cylinder, axis, prism power, and additional power, if applicable. The standard expiration date of the prescription must be at least one (1) year from the date the prescription was originally issued. It gives a minimum expiration of a year, The max is left up to the optometrist. 2) The Board does not track this information.
Kansas it is at the doctor's discretion.

Minnesota has no expiration date and leaves it at the discretion of the doctors. We do get a fair amount of calls from both the public and optometrists about the lack of clarity. Only the contact lens scripts are two years.
-
Nebraska has guidelines but I don't have knowledge how insurance companies react to the 2 year prescription and frequency of eye exams.
New York State does not have a set expiration date for glasses prescriptions, they can be good for up to 2 years, but this has not effected the way that insurances allow for eye exams.
ND has always had a 2 year glasses Rx and 1 year contact lens rx. It seems that patients don't keep track of the expiration date.
The State of Ohio allows for 2 year subscription for glasses and this has not had any adverse effects for the consumer. In fact, we have learned that consumer prefer the 2 year prescription for glasses vs. 1 year.
Oregon rules make it up to the OD's discretion based on the patients vision and eye health concerns.
South Dakota leaves it to the discretion of the doctor.
The Regulations of the Virginia Board of Optometry state the following regarding expiration dates: 18VAC105-20-45. Standards of practice. B. The following information shall appear on a prescription for ophthalmic goods: 1. The printed name of the prescribing optometrist; 2. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation; 3. The name of the patient; 4. The signature of the optometrist; 5. The date of the examination; 6. If an expiration date is placed on a prescription for ophthalmic goods, the date shall not be less than one year unless the medical reason for a shorter expiration date is documented in the patient record; and 7. Any special instructions. Question #2: NA.
Yes, WA has implemented a two year prescription expiration date WAC 246-852-010. https://app.leg.wa.gov/WAC/default.aspx?cite=246-852-010 . There hasn't been any adverse outcomes. I haven't seen much push back or concern regarding the 2 year prescription regulations.

For NV Member Query on Rx length.

This is an email I sent to our Association when they asked the question and there was a potential Bill out there for it, which never came to fruition, I think this should cover Adam's question. I'm happy to chat with him if he wants to discuss it further.

Please let me know if I can be of further assistance.

Margaret Whelan, Executive Director
Arizona State Board of Optometry
www.optometry.az.gov
(602) 542-8155
Fax (602) 883-7253

----- Forwarded message -----

From: **Margaret Whelan** <margaret.whelan@optometry.az.gov>
Date: Thu, Jan 12, 2023 at 11:33 AM
Subject: Re: Eyeglass expiration
To:

Hi Dr. ,

I had a bit of further thought on this matter. Changing the Rx date two 2 years may also result in a change to the way insurances pay/allow for eye exams and related benefits as well as frequency of coverage for those who may not "qualify" for a longer termed prescription.

Please let me know if I can be of further assistance.

Margaret Whelan, Executive Director
Arizona State Board of Optometry
www.optometry.az.gov
(602) 542-8155
Fax (602) 883-7253

From: Margaret Whelan <margaret.whelan@optometry.az.gov>
Sent: Tuesday, January 10, 2023 1:54:30 PM
To:
Subject: Re: Eyeglass expiration

Hello Dr. ,

To answer the latter half of your e-mail; as long as the prescription is valid, if the patient waits until "month 23" (or even 6 months past issue date) to get filled, there is no further liability to the practitioner as it is assumed the Rx was written properly.

Practitioners are not ever required to do "free checks". Whatever the office policy is for follow-up and check is just that. If it's 7 days, 14 days; that would remain the same.

Remakes are only for when the glasses are not made to the prescription, not for the patient claiming the prescription is incorrect. The Board does not regulate practice/practice management so a strong office policy would be the best practice should this change be made.

Please let me know if I can be of further assistance.

Margaret Whelan, Executive Director
Arizona State Board of Optometry
www.optometry.az.gov
(602) 542-8155
Fax (602) 883-7253

On Tue, Jan 10, 2023 at 1:40 PM wrote:

Thanks for sending this over. I understand your point completely. I also agree that this would open the door for more contact lens expiration date discussions.

It's my understanding that the proposed bill was brought up by a state senator who went to get glasses last year and was told he needed an eye exam because it was over a year. He was frustrated by that. We are looking at what we should do about it. I'm definitely not opposed to it but would probably like to see language for 18 and older. My partner also brought up the point of patients purchasing glasses at 23 months out and the glasses not working because the prescription has changed. Are we then required to do a free RX check almost 2 years after the last eye exam? Who is responsible for the glasses remake....

We are just discussing at this point trying to get more information.

From: Margaret Whelan <margaret.whelan@optometry.az.gov>

Sent: Tuesday, January 10, 2023 12:18 PM

To: Subject: Re: Eyeglass expiration

Hello Dr. ,

Here is the table from the Clinical Guidelines for Adults:

TABLE 1:

Recommended Eye Examination Frequency
for Adult Patients**

Examination Interval

Patient Age (Years)	Asymptomatic/ Low-Risk	At-Risk
18 through 39	At least every two years	At least annually, or as recommended
40 through 64	At least every two years	At least annually, or as recommended
65 and older	Annually	At least annually, or as recommended

As you can see, with a two-year frequency of exams (barring any ocular health issues), the one-year time frame currently practiced may be outside the Guidelines of the AOA. This is where the rub comes in for patients. If the eye is healthy, they could have a two year Rx for glasses and/or contact lenses.

It's not my place to change this as I am not an O.D. but from the perspective of public protection and according to the Guidelines set forth by the AOA, a practitioner could do a two-year prescription already without having to change the law.

Don could certainly look at this from a legal standpoint for the AZoA. I'll tell you right now though, changing just the eyeglasses time frame and not the contact lenses would definitely get the interest of the public and contact lens companies as an unfair practice.

All that being said, it really depends on why the AZoA is trying to clarify this and why they want to change it. Is it to appease the professionals or the patients? How did this issue come up? Was it only for the eyeglasses or was there discussion about CL too?

I think the AZoA could leave the prescription issue alone and simply use the Clinical Guidelines from the AOA to revisit the Standard of Practice for prescription length. It's a judgement call for the practitioner.

Attached is a copy of the current AOA Clinical Guidelines for Adults and Pediatrics.



April 21, 2024

Adam Schneider, Esq.
Executive Director
Nevada State Board of Optometry
PO Box 1824
Carson City, NV 89702

Dear Mr. Schneider,

The Nevada Optometric Association (NOA) and some of its member doctors have received calls from concerned colleagues regarding the proposed changes to the Nevada Administrative Code involving spectacle expiration dates (addition of section 5 to NAC 636.670). Many callers have opposed the proposal, and some have even suggested that Nevada State Board of Optometry Board Member Mr. Drew Johnson may be motivated by personal political aspirations. It's worth noting that Mr. Johnson is running for a seat in the U.S. Congress.

The NOA believes Mr. Johnson's misguided proposal is being promoted as a "consumer protection" effort to gain political favor in the upcoming election. The association is concerned that this proposal could lead to a conflict of interest for the Nevada State Board of Optometry (NSBO) and undermine its credibility in the eyes of the public.

Given the NSBO's mission to protect consumers and the controversial nature of Mr. Johnson's proposals, the NOA respectfully requests that this topic be postponed until after the General Election on November 5, 2024. This request is to avoid any appearance of impropriety and to uphold the NSBO's mandate to remain above reproach.

Thank you in advance for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Girisgen".

Steve Girisgen, OD
President

A handwritten signature in black ink, appearing to read "Troy Ogden".

Troy Ogden, OD
President-Elect

A handwritten signature in black ink, appearing to read "H. Kenneth Kopolow".

H. Kenneth Kopolow, OD
Secretary/Treasurer

A handwritten signature in black ink, appearing to read "Spencer Quinton".

Spencer Quinton, OD
Immediate Past President

Nevada Optometric Association
1344 Disc Drive #185 Sparks, NV 89436
p: 102.220.7444 f: 702.974.4446
nvoptometric.com

Nevada Board of Optometry
PO Box 1824
Carson City, NV 89702

Tuesday, April 16, 2024

To the Board:

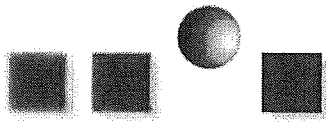
I understand that the board is considering formal changes to the optometry regulations, extending the expiration date of written prescriptions for glasses to two years in all cases. I am writing this letter to encourage the board to leave the current glasses/contacts prescription regulations in place without alterations.

As a glaucoma specialist I commonly see patients who have lost vision from eye diseases that were not diagnosed in a timely fashion. I believe there are multiple categories of patients that should have screening eye exams at least once a year. Often times the driving force that brings patients into an Optometrist's office is the need for a new glasses prescription. A two-year interval is too long for some groups of patients to go between exams.

As doctors we are trained to use our knowledge and skills to take care of our patients. The current regulations governing the expiration of glasses prescriptions allow an eye doctor (OD or MD/DO) to choose the appropriate expiration date for a glasses prescription based on the clinical scenario in front of them. In some cases, a 6-month interval is appropriate and in others 2 years is perfectly fine. Board regulations should support the decision-making capabilities of their licensees, not take those capabilities away by enacting overly broad regulations.

In summary I believe that the current Board leadership should vote NO to stop the proposed changes to the glasses prescription expiration date. I would be happy to discuss further.

Sincerely,
Peter W. DeBry, M.D.
Las Vegas Glaucoma Specialist



WELLISH VISION INSTITUTE
LASER & SURGERY CENTER

Adam Schneider, Esq., Executive Director
Nevada State Board of Optometry
937 Mica Dr #17, Carson City, NV 89705
Director@NVoptometry.org

April 4, 2024

Dear Mr. Schneider:

It has come to my attention that the Nevada State Board of Optometry is considering adding a requirement that may restrict Nevada Optometrists' autonomy when writing spectacle prescriptions for their patients between the ages of 18-65. Without belaboring the fine points of the proposed change, I would like to express to you that I fundamentally oppose placing limits or restrictions on the practice of optometrists' spectacle prescribing habits.

As a Board-Certified Nevada Ophthalmologist, I have worked with area Optometrists for nearly 30 years and generally speaking, I find this group of primary eye care providers to be well-trained and well-informed when it comes to delivering their services. I also believe annual eye exams are an essential and important part of a comprehensive health care program. As a clinician with many years of experience, I feel messaging and communications between doctor and patient should be clear and concise. Extending the expiration date of spectacle prescriptions sends the message that a given patient's eyes and vision are "fine" for 24 months and essentially invites patients to delay preventative care simply because they are not having symptoms. Every week we already see patients with irreversible loss of vision due Macular Degeneration, Glaucoma, Keratoconus, Amblyopia or other "silent" killers of eyesight. These conditions, if caught earlier could have been treated and blindness prevented. If the Nevada State Board of Optometry adds the above requirement the numbers of patients needlessly going blind or visually disabled will only increase.

My research into the topic has confirmed that the American Optometric Association's position supports the annual eye exam standard and I believe local Optometrists should remain aligned with their national association on this topic.

Thank you in advance for your time and consideration on this important issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Kent Wellish'.

Kent L. Wellish, MD.
(702) 742-3448 (cell) drwellish@mac.com

Prefer to stay with 12 months.

Hello, I am against the proposed change for "For spectacle lenses, a prescription shall be valid for a period of 24 months for patients age 18-65 years old unless the prescriber documents a reason for the shorter period of time."

I hope this email finds you well. I am reaching out to speak out against the proposed change for "For spectacle lenses, a prescription shall be valid for a period of 24 months for patients age 18-65 years old unless the prescriber documents a reason for the shorter period of time."

I have gone back and reviewed the minutes from the NAC workshop from 1/24/24.

I still have questions and concerns about the proposed changes to the Rx Spectacle statute. I will look for future opportunities to be involved in discussion with the board members during public meetings.

I have found that including a one-year expiration on my spectacle Rx is an effective way to encourage appropriate follow up for my patients. As a medical provider I carry a lot of liability. Changing the spectacle Rx to 2 years reduces the likelihood of me seeing patients back for annual exams while doing nothing to relieve me of that liability.

I strongly encourage the board to leave the statute as currently written (at 1 year).

Thank you for passing this information along to the members of the board.

I strongly DO NOT support changing NAC 636.670 to reflect a 24 month expiration date for prescriptions. This is NOT in the best interest of the patient as they then assume getting an eye examination every 2 years is acceptable. It can even cause vision loss as the diabetic or macular degeneration patient may delay their eye exam. Then, instead of getting much needed treatment at an earlier date, their treatment is delayed and could have a worse outcome for them. We already see in practice that a glaucoma patient will delay their appointments unless told their prescription has expired. Changing this regulation will be a detriment to the eye health care of Nevadans.

I previously practiced in CA which has a two year expiration date law. I saw many patients who would have benefited from an earlier eye exam but did not come in because their prescription was not expired.

Please DO NOT VOTE FOR extending the prescription date.

I am writing to oppose the proposal of the addition of item 5 to NAC 636.670 regarding glasses prescriptions expirations being increased to two years. Reasons against this may include the following:

1. I'm concerned that this will become a way for insurance companies to make more money. If a patient's benefits roll over every 24 months the insurance companies stand to make a considerable

amount of money on collected premiums, without a service being provided to the patient. Further, this puts more of a burden on patients to pay out of pocket for more services taking any responsibility on the vision to provide a benefit less likely; and since most of the vision plans own the frame and lens labs, the profit margin for the vision plans will be much higher.

2. There are a number of patients out there who don't notice a change in prescription, and since the prescription is "good" for 2 years will put off any evaluation of their vision.

3. The prescription process is very subjective. I've done plenty of prescriptions on patients who had a refraction hours earlier, and came to two very different prescriptions. If a prescription is valid for two years, there are patients who will be left with a prescription they may not be seeing out of well for two years.

4. There are changes in technology of lenses. A two year prescription may deprive these patients of those opportunities using their vision plan.

Obviously, a lot of this goes back to the patient, doctor, vision plan relationship. In this new proposal, the vision plan is the winner. Patients need to be the priority, so the prescription should remain a one year expiration.

On a second note, I also would like to ask that there be consideration of the modification of NRS 636.373 item 5 to allow ophthalmologists to hire optometrists. This may require a modification to item 3 as well; only to allow people who are ophthalmologists or optometrists to supervise an optometrist. I know that there are scare tactics being used to keep the law as it is, but I have never encountered an ophthalmologist who was going to force me to do something outside of my scope of practice, let alone anything I haven't been comfortable doing in a clinic. I currently work in an ophthalmology group and worked part time for two ophthalmologists prior to my current place of work. ALL of the ophthalmologists, even if I didn't have the greatest opinion of them, were so respectful of the NRS 636 and NAC 636 laws relative to my conduct and practice. They ALL wanted to be as helpful as possible and have been nothing but polite, kind, and respectful. Ophthalmologists should not be demonized, and optometrists should not be financially discriminated against because of an outdated law. I implore the removal/modification of these NRS sections to create a level playing field for optometrists to be compensated as equals to ophthalmology in an ophthalmology setting, as currently they are not.

I am writing to express my vehement opposition to the proposed change in glasses expiration dates from one year to two years. As an ophthalmologist in Nevada, I strongly believe that such a change would have detrimental effects on public health and safety.

The current one-year expiration for glasses prescriptions serves a vital purpose in ensuring the visual health and well-being of individuals. By requiring annual check-ups and prescription renewals, the current system enables doctors to monitor and address any changes in vision promptly, thus safeguarding the ocular health of patients.

Extending the expiration period to two years would significantly compromise this crucial aspect of eye care. It would introduce unnecessary risks, potentially leading to undetected vision problems, delayed interventions, and compromised safety for individuals who rely on corrective lenses.

In conclusion, I urge the Nevada State Board of Optometry to reconsider the proposed change in glasses expiration dates and maintain the current one-year requirement. Doing so is imperative to

uphold the highest standards of eye care, prioritize public health and safety, and ensure that individuals in Nevada receive the timely and appropriate vision correction they deserve.

Thank you for your attention to this matter. I trust that you will carefully consider the concerns raised herein and make the decision that best serves the interests of the citizens of Nevada.

I am writing to express my vehement opposition to the proposed change in glasses expiration dates from one year to two years. As an optometrist in Nevada, I strongly believe that such a change would have detrimental effects on public health and safety. The current one-year expiration for glasses prescriptions serves a vital purpose in ensuring the visual health and well-being of individuals.

Vision is not a static aspect of our health; it can change rapidly due to various factors such as age, health conditions, and environmental influences. By requiring annual check-ups and prescription renewals, the current system enables optometrists to monitor and address any changes in vision promptly, thus safeguarding the ocular health of patients. Extending the expiration period to two years would significantly compromise this crucial aspect of eye care. It would introduce unnecessary risks, potentially leading to undetected vision problems, delayed interventions, and compromised safety for individuals who rely on corrective lenses. Furthermore, it may discourage individuals from seeking regular eye examinations, falsely assuming that their vision remains unchanged for an extended period. Additionally, from a consumer protection standpoint, the proposed change raises concerns about the quality and appropriateness of eyewear prescriptions over an extended period. Vision correction is a highly individualized aspect of healthcare, and what may be suitable for one person could be inadequate or even harmful to another.

Moreover, extending the expiration period for glasses prescriptions contradicts the standards upheld by reputable healthcare regulatory bodies and professional organizations. The American Optometric Association (AOA), for instance, recommends annual comprehensive eye examinations for adults to ensure early detection and treatment of vision problems and ocular diseases. By deviating from such established guidelines, the proposed change undermines the credibility and integrity of optometric practice in Nevada.

In conclusion, I urge the Nevada State Board of Optometry to reconsider the proposed change in glasses expiration dates and maintain the current one-year requirement. Doing so is imperative to uphold the highest standards of eye care, prioritize public health and safety, and ensure that individuals in Nevada receive the timely and appropriate vision correction they deserve.

Thank you for your attention to this matter. I trust that you will carefully consider the concerns raised herein and make the decision that best serves the interests of the citizens of Nevada.

The AOA does not have any data regarding the insurance questions that you asked about. I spoke with the Third-party chair and their staff for the AOA regarding those questions and this was his response. "Most vision plans cover exams every year despite the law. We do have some that are every two years, and some that cover everything yearly except for glasses frames every 2 years. I don't think those plans are specific to our state or has changed because of the law. We have not heard of any reports of states seeing benefit frequency change as a result of this type of change, although it is not often a change like this occurs."

Alabama

630-X-12-.03 Release of Patient Records. The Board shall deem it unprofessional conduct for a licensee to fail to release information in a patient's record to said patient, provided, however, that no record need be released until all reasonable fees have been paid by said patient to the licensee, and provided further that a reasonable fee may be charged for providing a copy of information to said patient. This rule shall include the release of contact lens prescriptions, sufficient to order replacement lenses, to the patient, provided that a complete contact lens prescription has been determined and evaluated. **A reasonable expiration date shall be set forth on all prescriptions.** After said expiration date, a licensee shall be required to release said prescription only to a licensed optometrist or ophthalmologist of the patient's choice and said prescription shall be clearly marked with the expiration date and the words "EXPIRED. FOR INFORMATION PURPOSES ONLY." The Board shall deem it unprofessional conduct for a licensee to fail to maintain, in his or her possession, all records pertaining to a patient for a period of not less than seven years from the date of the last service provided to that patient.

Helpful links: [The Alabama Board of Optometry Administrative Code](#)

Alaska

(a) As used in AS 08.72 and this chapter, "prescription", means a written formula by a person licensed under AS 08.72 that contains the issue date of the prescription, the name and office location, and contact information of the prescriber, the name of the patient, and, for

(1) eyeglasses, the

(A) dioptric power of spheres, cylinders, and prisms;

(B) axis of cylinders and position of prism base;

(C) designation of inter-pupillary distances; and

(D) expiration date;

(2) contact lenses, the

(A) base curve or appropriate designation;

(B) diameter when appropriate;

(C) power;

(D) manufacturer;

(E) lens brand;

(F) material, if applicable;

(G) center thickness, if applicable; and

(H) expiration date;

(b) The expiration date under (a)(2) of this section may not be less than one year from the issue date of the prescription, unless the prescriber determines the ocular health of the patient requires an expiration date of less than one year.

Helpful links: [12 AAC 48.920](#)

Arizona

A. When a licensee completes an eye examination and generates an optometric prescription, the licensee shall provide the patient with a copy of the optometric prescription without charging a fee other than the examination fee.

B. A licensee shall ensure that an optometric prescription written by the licensee includes:

1. For ophthalmic lenses other than contact lenses:

a. Name of the patient;

b. Refractive power of the lenses;

c. Printed name, office address, telephone number, and signature of the licensee; and

d. Date of the examination and expiration date of the prescription;

Helpful links: [A.A.C. R4-21-306](#)

Arkansas

(a)(1) If at the completion of an ophthalmic examination by any licensed optometrist or by any physician who practices as an ophthalmologist in this state the practitioner recommends as a result of the examination that the patient needs eyeglasses of common availability within the state, then the optometrist or physician practicing as an ophthalmologist shall upon request of the patient provide to the patient a complete and accurate written prescription at no additional charge.

Helpful links: [A.C.A. 17-90-108](#), [Ark. Admin. Code 007.38.1-19](#)

California

(a) A spectacle lens prescription shall include all of the following:

(1) The dioptric power of the lens. When the prescription needed by the patient has not changed since the previous examination, the prescriber may write on the prescription form "copy lenses currently worn" instead.

(2) The expiration date of the prescription.

(3) The date of the issuance of the prescription.

(4) The name, address, telephone number, prescriber's license number, and signature of the prescribing optometrist or physician and surgeon.

(5) The name of the person to whom the prescription is issued.

(b) The expiration date of a spectacle lens prescription shall not be less than two years and shall not exceed four years from the date of issuance unless the patient's history or current circumstances establish a reasonable probability of changes in the patient's vision of sufficient magnitude to necessitate reexamination earlier than two years, or presence or probability of visual abnormalities related to ocular or systemic disease indicates, the need for reexamination of the patient earlier than two years. In no circumstances shall the expiration date be shorter than the period of time recommended by the prescriber for reexamination of the patient. Establishing an expiration date that is not consistent with this section shall be regarded as unprofessional conduct by the board that issued the prescriber's certificate to practice.

(c) The prescriber of a spectacle lens shall orally inform the patient of the expiration date of a spectacle lens prescription at the time the prescription is issued. The expiration date of a prescription may be extended by the prescriber and transmitted by telephone, electronic mail, or any other means of communication. An oral prescription for a spectacle lens shall be reduced to writing and a copy of that writing shall be sent to the prescriber prior to the delivery of the lenses to the person to whom the prescription is issued.

(d) A prescriber of a spectacle lens shall abide by the rules pertaining to spectacle lens prescriptions and eye examinations adopted by the Federal Trade Commission found in Part 456 of Title 16 of the Code of Federal Regulations.

(e) An expired prescription may be filled if all of the following conditions exist:

(1) The patient's spectacles are lost, broken, or damaged to a degree that renders them unusable.

(2) Upon dispensing a prescription pursuant to this subdivision, the person dispensing shall recommend that the patient return to the optometrist or physician and surgeon who issued the prescription for an eye examination and provide the prescriber with a written notification of the prescription that was filled.

Colorado

B. Upon Conclusion of an Eye Exam Where A Valid Prescription Has Been Determined and/or Finalized. Regardless of whether the patient requests it or not, it is required that the optometrist immediately provide a(n): 1. Eyeglass prescription. 2. Contact lens prescription, as defined in subsection (C)(11) of this Rule, at the conclusion of a lens fitting.

10. Eyeglass prescription (if applicable); a. An electronic signature on an eyeglass prescription shall be considered to have the same force and effect as an original signature.

Helpful links: [4 CCR 728-1](#)

Connecticut

For each client fitted with prescription eyeglasses or prescribed contact lenses, a licensed optician shall keep a record. When prescription items are dispensed by a registered apprentice optician, the supervising licensed optician must verify the accuracy of all the data included in the client record and indicate this on the record. A client record shall contain the following:

(a) Prescription Eyewear

Records shall include:

- (1) Doctor's **prescription** and date, including name of **prescribing** doctor;
- (2) Date of delivering said **prescription**, to include any duplication of existing lenses;
- (3) Facial measurements, to include but not be limited to: interpupillary measures; frame size determinations, including eye size, bridge size, temple length;
- (4) Name of frame provided; and
- (5) Lens description to include: lens materials; placement of optical centers; lens tint; and, when applicable, multifocal type and placement of multifocal.

Helpful links: [Conn. Agencies Regs. 19a-14-51](#)

Delaware

Florida

- (1) Any prescription written by a duly licensed allopathic or osteopathic physician or optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices shall be kept on file for a period of 2 years with the optical establishment that fills such prescription. However, the licensed optician may maintain a copy of the prescription.
- (2) Upon request by the intended user of the prescribed lenses, spectacles, eyeglasses, contact lenses, or other optical devices, or by an agent of the intended user, the optician who fills the original prescription shall duplicate, on a form prescribed by rule of the board, the original prescription. However, for medical reasons only, the prescribing allopathic or osteopathic physician or optometrist may, upon the original prescription, prohibit its duplication. **Any duplication shall be considered a valid prescription to be filled for a period of 5 years from the date of the original prescription, except that a contact lens prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.**
- (3) Nothing in this part shall be construed to prohibit a licensed optician from accurately duplicating lenses as to power without a prescription.

Helpful links: [F.S.A. 484.012](#)

Georgia

- (1) Before diagnosing or prescribing a treatment plan for any patient, including prescriptions for glasses, contact lenses or other optical devices, the following must be met and determined:

- (a) case history as related by patient; and
- (b) any pathological conditions of the eyes, both external and internal with diagnosis recorded; and
- (c) the need for any necessary optometric tests to ascertain the final treatment plan.

(2) A comprehensive eye examination includes an assessment of a patient's history, any general medical observations, an external and ophthalmoscopic examination, an assessment of gross visual field, visual acuity, ocular alignment and motility, refraction, and, binocular vision and accommodation, a diagnosis, if applicable, and a plan of treatment.

(3) The written and/or electronic record of the above determination of each patient examined shall be maintained by the licensed doctor of optometry for seven (7) years from initiation and be made available to the Board or its authorized agents for inspection at any reasonable time.

Helpful links: [Ga Comp. R. & Regs. 430-5-01](#)

Hawaii

“Spectacle prescription” means an order or formula issued by a practitioner licensed by the State or authorized by the laws of the State to prescribe prescription ophthalmic lenses, setting forth refractive powers for the manufacturing of any lens which has a spherical, cylindrical prismatic power or value or any combination thereof. A spectacle lens prescription expiration date shall be determined by the professional judgment of the licensed practitioner.

Helpful links: [Haw. Admin. Rules 16-92-2](#)

Idaho

Eyeglasses and contact lenses, including plano or cosmetic contact lenses, may only be dispensed upon a current prescription issued by an optometrist or medical physician. Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: (7-1-21)T

01. Prescription for Spectacles. Prescriptions for spectacles must contain the following: (7-1-21)T

- a. Sphere, cylinder, axis, prism power and additional power, if applicable; and (7-1-21)T
- b. The standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. (7-1-21)T

Helpful links: [IDAPA 24.10.01.450](#)

Illinois

c) No ophthalmic lenses, prisms, or contact lenses may be sold or delivered to an individual without a prescription signed by a licensed optometrist or a physician licensed to practice medicine in all of its branches.

Helpful links: [Ill. Adm. Code 1320.100](#)

Indiana

Sec. 1. (a) In the practice of optometry as defined by [IC 25-24-1-4](#), an optometrist has a responsibility to do the following:

- (1) Properly examine the patient to determine the patient's ophthalmic needs.
- (2) Prepare a proper prescription when indicated to adequately fulfill the patient's needs.
- (3) **Determine the expiration of the prescription.** The date of expiration of the prescription for a contact lens prescription shall not exceed one (1) year from the date of issuance by the prescribing optometrist.

Helpful links: [852 IAC 1-5.1-1](#)

Iowa

182.3(3) An ophthalmic spectacle lens prescription shall contain the following information:

- a. Date of issuance;
- b. Name and address of the patient for whom the ophthalmic lens or lenses are prescribed;
- c. Name, address, and signature of the practitioner issuing the prescription;
- d. All parameters necessary to duplicate properly the ophthalmic lens prescription; and
- e. **A specific date of expiration not to exceed two years.**
- f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

182.3(4) Release of ophthalmic lens prescription.

- a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.
- b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.
- c. Spectacle lens prescriptions must be in written format, according to [Iowa Code section 147.109\(1\)](#).

Helpful links: [Iowa Admin. Code 645-182.3\(154\)](#)

Kansas

(a) Any prescription issued by a licensee for spectacle lenses shall include:

- (1) the sphere power;
- (2) the cylinder power;
- (3) the axes location;
- (4) the prism power and base direction;
- (5) the type, size, and power of multifocal; and
- (6) the interpupillary distance, far and near.

(b) No prescription for spectacle lenses shall include instructions to obtain the specifications from existing lenses without examination.

(f) In addition, the following information shall be included on any prescription issued by a licensee for any ophthalmic lenses:

- (1) the printed name and license registration number of the prescribing licensee;
- (2) the address and telephone number at which the patient's records are maintained and at which the prescribing licensee can be reached for consultation;
- (3) the name of the patient;
- (4) the signature of the prescribing licensee;
- (5) the date the prescription was issued, the date of the examination, and expiration date, if appropriate;
- (6) any instructions necessary for the fabrication or use of the ophthalmic lenses; and
- (7) any special instructions.

Kentucky

- (3) A prescription for visual aid glasses shall include the following:
 - (a) The name, license number, telephone number, and for written orders, the signature of the prescribing optometrist, osteopath, or physician;
 - (b) The patient's name;
 - (c) The date of issuance; and
 - (d) The value of all parameters the licensed optometrist, osteopath, or physician has deemed necessary to dispense corrective lenses appropriate for a patient.
- (4) A licensed optometrist, osteopath, or physician shall not refuse to release a prescription for contact lenses or visual aid glasses to a patient.

Helpful links: [Consumer Protection in Eye Care Act](#)

Louisiana

A. To constitute a valid spectacle prescription, every spectacle prescription for use in correcting errors of refraction and restoring, as near as possible, normal human vision shall contain in a legible form the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, refractive power (including spherical power, cylindrical power, axis, prism, and multifocal addition power, as applicable), and may contain information specifying the physical design (i.e. base curve, material type, and other pertinent measurements such as pupillary distance).

Every spectacle prescription shall contain an expiration date and the signature of the provider issuing the prescription. The expiration date may not exceed 18 months, unless the provider documents a valid medical reason in the chart for doing so.

Helpful links: [La. Admin Code Title 46 Part LI 505](#)

Maine

A-1. For ophthalmic lenses and contact lenses:

- (1) The prescription must contain all the information necessary to be properly dispensed;
- (2) The prescription must specify whether it is for contact lenses or ophthalmic lenses;
- (3) All prescriptions must include the name of the patient, date of prescription, name and office location of prescriber and an expiration date. A prescription may not contain an expiration date of more than 2

years from the date of the eye examination by the provider unless the prescription contains a statement made by the provider of the reasons why a longer time frame is appropriate based on the medical needs of the patient;

Helpful links: [32 M.R.S.A. 2417](#)

Maryland

Massachusetts

(a) For purposes of 246 CMR 3.02, a “prescription for ophthalmic lenses or spectacle eyeglasses” is defined as a written order bearing the original handwritten or electronic signature of an Optometrist, or an oral order issued directly by an Optometrist, authorizing the provision of specified ophthalmic lenses or spectacle eyeglasses.

(b) Said prescriptions shall, at a minimum, contain all of the following information:

1. The name, office address, office telephone number, and registration number of the Optometrist issuing said prescription;
2. The name of the patient to whom or for whom the prescription is issued;
3. The date on which the prescription is issued and the date on which said prescription shall expire;
4. The sphere power, cylinder power and axis, prism power, and position of the base for the ophthalmic lenses or spectacle eyeglasses to be furnished, if applicable;
5. The lens material, if clinically significant;
6. The interpupillary measurement for distance and/or near as it pertains to the prescription;
7. The near add power, if applicable;
8. The segment type and size, if applicable;
9. The tint or coating, if applicable; and
10. Any and all appropriate notations as to when the lenses or spectacle eyeglasses are to be worn.

(5) Patient Access to Ophthalmic Lens or Spectacle Eyeglass Prescriptions. An Optometrist shall furnish a copy of a patient's prescription for ophthalmic lenses or spectacle eyeglasses as required by 16 CFR 456; *Ophthalmic Practice Rules*.

Helpful links: [246 CMR 3.02](#)

Michigan

Minnesota

Prescriptions furnished to the patient shall be signed by the examining optometrist. No licensed optometrist shall sign or cause to be signed a refractive prescription without first making a personal examination of the eyes of the person for whom the prescription is made.

Notwithstanding any practice to the contrary, in an emergency situation or in the case of lost glasses, an optometrist or physician may authorize a new pair of prescription eyeglasses using the prescription from the old lenses or the last prescription available.

Helpful links: [Board of Optometry Statute & Rules](#)

Mississippi

Rule 6.2 Spectacle prescriptions

- (a) The written spectacle prescription of a licensed optometrist shall include the name of the patient, the date the prescription is written, and the expiration date of the prescription.
- (b) Spectacle prescriptions are defined as follows: (1) sphere power (2) cylinder and axis power, if necessary (3) prism and base amount, if necessary (4) bifocal power, if necessary
- (c) A spectacle prescription is valid for no more than two (2) years.
- (d) If a practicing optometrist fits for glasses he/she must give the patient a copy of their written prescription whether they ask for it or not. The practicing optometrist cannot require the patient to pay an extra fee or purchase eyeglasses.

Helpful links: [Miss Code Ann.§73-19-61](#)

Missouri

- (7) It shall be considered misconduct in the practice of optometry to--
 - (A) Write or allow to be written any prescription for ophthalmic materials or pharmaceutical agents which does not legibly include on the face of the prescription the license number of the optometrist, the full name of the optometrist (printed or typed), the optometrist or the initials O.D., and the signature of the prescribing optometrist; or

Helpful links: [20 Mo. Code of State Regulations 2210-2.060](#)

Montana

Nebraska

No person in this state may dispense contact lenses or spectacles, other than over-the-counter spectacles, to a patient without a valid prescription from a provider. A valid prescription for spectacles or contact lenses (1) shall contain an expiration date of not less than two years for spectacles or one year for contact lenses from the date of the eye examination by the provider or a statement by the provider of the reasons why a shorter time is appropriate based on the medical needs of the patient and (2) may not be made based solely on information about the human eye generated by a kiosk. The prescription shall take into consideration any medical findings and any refractive error discovered during the eye examination. A provider may not refuse to release a prescription for spectacles or contact lenses to a patient.

Helpful links: [Consumer Protection in Eye Care Act](#)

Nevada

1. A prescription for spectacle lenses must specify the refractive power necessary for best vision.

New Hampshire

“Prescription for spectacle lenses” means a dated and signed, written or oral direction not more than 24 months old from an ophthalmologist or optometrist for therapeutic or corrective lenses which states

the prescribed refractive power and when necessary, the vertex distance, cylinder axis, and prism. The oral prescription must be recorded and kept on file for one year by the ophthalmic dispenser.

Helpful links: [N.H. Rev. Stat. 327-A:1](#)

New Jersey

(b) Every optometrist shall provide the following information on all prescriptions:

1. The prescriber's full name, address, telephone number, license number and academic degree or identification of professional practice. This information shall be preprinted on all prescriptions;
2. The full name of the patient;
3. The date of issuance of prescription; and
4. The signature of the prescriber, hand-written.

Helpful links: [New Jersey State Board of Optometrists](#)

New Mexico

A prescription written for ophthalmic lenses shall include the following:

- (1) the dioptric power of spheres, cylinders and prisms;
- (2) the axes of cylinders;
- (3) the position of the prism base;
- (4) the designation of the pupillary distance;
- (5) the name of the patient;
- (6) the date of the prescription;
- (7) the expiration date of the prescription; and
- (8) the name and address of the prescriber

The following exemplify the types of conduct or acts of omission that shall subject the licensee or applicant to disciplinary action by the board.

Refusing to provide the patient with their eyeglass prescription if the prescription is under a year old.

Duplicating or replacing eyeglasses when the prescription is more than two years old without written authorization from the patient.

Helpful links: [Title 16. Occupational and Professional Licensing](#)

New York

Unprofessional conduct in the practice of optometry shall include all conduct prohibited by Sections 29.1 and 29.2 of this Part, except as provided in this section, and shall also include the following: failing to provide a patient, upon request, with the patient's prescription, including the name, address and signature of the prescriber and date of the prescription;

Helpful links: [Laws, Rules & Regulations for Optometry](#)

North Carolina

All persons licensed or registered under this Chapter shall upon request give each patient having received an eye examination a copy of his spectacle prescription. No person, firm or corporation licensed or registered under Article 17 of this Chapter shall fill a prescription or dispense lenses, other than spectacle lenses, unless the prescription specifically states on its face that the prescriber intends it to be for contact lenses and includes the type and specifications of the contact lenses being prescribed. The prescriber shall state the expiration date on the face of every prescription, and the expiration date shall be no earlier than 365 days after the examination date.

Helpful links: [NCGSA 90-127.3](#)

North Dakota

Optometrists shall make available to their patients a copy of their spectacle (not contact lenses) prescription upon request. Every spectacle prescription shall have noted thereon an expiration date not to exceed thirty-six months.

Helpful links: [NDAC 56-02-04-03](#)

Ohio

(B) A licensed optometrist, on completion of a vision examination and diagnosis, shall give each patient for whom the optometrist prescribes any vision correcting item, device, or procedure, one copy of the prescription, without additional charge to the patient. The prescription shall include the following:

- (1) The date of its issuance;
 - (2) Sufficient information to enable the patient to obtain from the supplier of the patient's choice, the optical accessory or other vision correcting item, device, or procedure that has been prescribed;
 - (3) In the case of contact lenses, all information specified as part of a contact lens prescription, as defined in the "Fairness to Contact Lens Consumers Act," 117 Stat. 2024 (2003)
- (C) The examining licensed optometrist may expire a spectacle prescription at the end of two years after the eye examination and completed diagnosis under normal circumstances. The prescription may be expired in less than two years based on the medical judgment of the examining licensed optometrist with respect to the ocular health of the patient. The specific medical judgment must be documented in the patient's records.

Helpful links: [R.C. 4725.28](#), [OAC 4725 -7-06](#)

Oklahoma

C. A prescription for visual aid glasses shall include the following:

1. The name, license number, telephone number and, for written orders, the signature of the prescribing optometrist;
2. The patient's name;
3. The date of issuance; and
4. The value of all parameters the Oklahoma-licensed optometrist has deemed necessary to dispense corrective lenses appropriate for a patient.

D. An Oklahoma-licensed optometrist shall not refuse to release a prescription for contact lenses or visual aid glasses to a patient.

Helpful links: [Optometric Law](#)

Oregon

(1) Prescription specifications must be reasonably based on the patient's vision and eye health concerns and must include all information required to ensure the patient receives the designated ophthalmic products.

(2) Spectacle prescriptions must include the following information:

- (a) Patient's name;
- (b) Examination date;
- (c) Prescription issuance date (the date on which the patient receives a copy of the prescription);
- (d) Optometric physician's name, license number, practice location address, telephone number and facsimile (fax) number and handwritten, stamped or electronic signature. If using another doctor's printed or electronic prescription form, the prescribing doctor must legibly print his or her own name and license number on prescription form before signing;
- (e) Sphere, Cylinder, Axis and/or ADD;
- (f) Any special features, which may include but are not limited to: type of bifocal, trifocal or progressive lens style, prism, material, tints, coatings or edge polish; and
- (g) A reasonable and clinically-prudent expiration date.

Helpful links: [OAR 852-020-0029](#)

Pennsylvania

(d) Spectacle prescriptions shall specify any information that would be relevant to manufacturing glasses including the dioptic value of the sphere, astigmatism, prism, slab off, add power and axis or orientation of the astigmatism correction. The expiration date of a spectacle prescription may not be greater than 2 years.

Helpful links: [49 Pa. Code § 23.72](#)

Rhode Island

It is unlawful for any person, firm, or corporation to sell, as merchandise, in any store or established place of business in the state, any eyeglasses, spectacles, or lenses for the correction of vision, unless a licensed optometrist, physician, or optician under the laws of this state is in charge and in personal attendance at the booth, counter, or place where those articles are sold in a store or established place of business. The provisions of this section shall not be construed to apply to the sale of simple reading magnifying glasses, toy glasses, goggles consisting of plano white or plano colored lenses or ordinary colored glasses, or to optometrists, physicians, or opticians who sell spectacles, eyeglasses, or lenses by prescription.

Helpful links: [Gen.Laws 1956, § 5-35.1-10](#)

South Carolina

(B) A person is deemed to be practicing optometry within the meaning of this chapter if the person:

- (1) displays a sign or in any way advertises as an optometrist;
- (2) employs any means for the measurement of the powers of vision or the adaptation of lenses for the aid of vision;
- (3) uses lenses in the testing of the eye in the sale of spectacles, eyeglasses, or lenses other than lenses actually sold;
- (4) examines the human eye by the employment of any subjective or objective physical means to ascertain the presence of defects or abnormal conditions for the purpose of relieving them by the use of lenses, prisms, or other physical or mechanical means;
- (5) practices orthoptics or prescribes contact lenses; or
- (6) utilizes pharmaceutical agents for diagnostic and/or therapeutic purposes in the practice of optometry in accordance with this chapter.

(C) The possession of appliances for the examination of the eye, optical supplies, ophthalmic instruments, or optical equipment is prima facie evidence of practicing optometry and requires compliance with this chapter.

Helpful links: [Title 40](#)

South Dakota

Upon the request of a patient for whom an optometrist has prescribed spectacle lenses, the optometrist shall issue the prescription and deliver a copy to the patient. **A spectacle lens prescription expires on the date specified by the optometrist, based upon the medical judgment of the optometrist with respect to the ocular health of the patient.** If a prescription expires in less than one year, the reasons for the expiration date must be documented in the patient's medical record. An optometrist may not specify a prescription expiration date that is earlier than the date on which reexamination of the patient is medically necessary. Requests for medical records are governed by [SDCL 36-2-16](#).

Helpful links: [ARSD 20:50:04:06](#)

Tennessee

(3) All therapeutic prescriptions written by a Tennessee optometrist certified to practice therapeutics must include:

- (a) Tennessee license number;
- (b) "T" designation preceding license number, i.e. OD-T000;

Helpful links: [Tenn. Comp. R. & Regs. 1045-02-.09](#)

Texas

(a) An ophthalmic lens prescription must include:

- (1) the signature of the optometrist or therapeutic optometrist; and
- (2) the information and parameters the optometrist or therapeutic optometrist considers relevant or necessary.

(b) The prescription may not contain a restriction that limits the parameters to a private label not available to the optical industry as a whole.

Helpful links: [Texas Optometry Act](#)

Utah

(b) A prescription may include:

- (i) a limit on the quantity of lenses that may be ordered under the prescription if required for medical reasons documented in the patient's files; and
- (ii) the expiration date of the prescription, which shall be two years from the commencement date, unless documented medical reasons require otherwise.

Helpful links: [Utah Optometry Practice Act](#)

Vermont

Unprofessional conduct.

(3) Any of the following with regard to the buyer's prescription or purchase of ophthalmic goods:

(B) Conditioning the availability of an eye examination to any person on a requirement that person agree to purchase any ophthalmic goods from the optometrists.

(C) Charging the buyer any fee in addition to the optometrist's examination fee as a condition to releasing the prescription to the buyer. Provided, an optometrist may charge an additional fee for verifying ophthalmic goods dispensed by another seller when the additional fee is imposed at the time the verification is performed.

(D) Placing on the prescription or requiring the buyer to sign, or delivering to the buyer a form or notice waiving or disclaiming the liability or responsibility of the optometrist for the accuracy of the eye examination or the accuracy of the prescription for ophthalmic goods or services to be dispensed by another seller.

(E) Failure to comply with prescription-released requirements established in the Federal Ophthalmic Practice Rule (16 C.F.R. Part 456) or the Fairness to Contact Lens Consumers Act (15 U.S.C.A. § 7601-7610).

Helpful links: [Chapter 30: Optometry](#)

Virginia

B. The following information shall appear on a prescription for ophthalmic goods:

1. The printed name of the prescribing optometrist;
2. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
3. The name of the patient;
4. The signature of the optometrist;

5. The date of the examination;

6. If an expiration date is placed on a prescription for ophthalmic goods, the date shall not be less than one year unless the medical reason for a shorter expiration date is documented in the patient record; and

7. Any special instructions.

Helpful links: [Virginia Administrative Code](#)

Washington

(f) Shall not expire prescriptions in less than two years, unless a shorter time period is warranted by the ocular health of the eye. If a prescription is to expire in less than two years, an explanatory notation must be made by the prescriber in the patient's record and a verbal explanation given to the patient at the time of the eye examination.

Helpful links: [WAC 246-852-010](#)

West Virginia

Wisconsin

(24) Failing to release, at no cost to the patient, a copy of the patient's spectacle lens prescription or contact lens prescription following release of the patient from contact lens fitting and initial follow-up care.

Note: Federal Trade Commission Rules [16 CFR 315.3](#) and CFR 456.2 require the release of spectacle and contact lens prescriptions.

Helpful links: [Chapter Opt 5](#)

Wyoming

(a) Expiration of Prescriptions.

(i) Contact lens prescriptions shall expire one (1) year from the date of issuance.

(ii) Ophthalmic lens prescriptions shall expire two (2) years from the date of issuance.

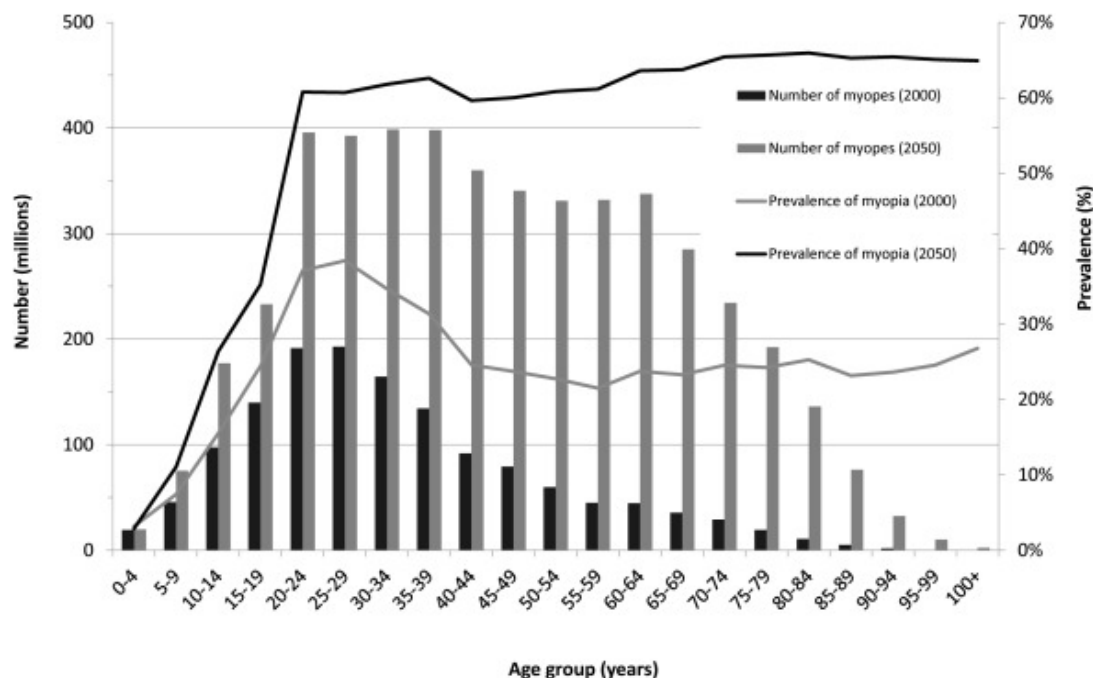
(iii) A licensee may set an expiration date of earlier than one (1) or two (2) year expiration periods identified above only if that date is based on the licensee's medical judgment about the patient's eye health. In these cases, the licensee shall document the medical reason for the shorter expiration date with enough detail to allow for review by a qualified medical professional. The licensee shall also maintain these records for at least three (3) years.

Helpful links: [WY Rules and Regulations 056.0001.5 § 5](#)

To whom it May Concern,

I hope this email finds you well. I am writing to express my opposition to the proposed change outlined in NAC 636.670, which would extend the expiration period of prescription glasses to 24 months for patients aged 18-65 years old, unless a shorter duration is documented by the prescriber. As an optometrist deeply invested in the visual health and well-being of our patients, I believe this change could have detrimental effects on their ocular health and overall vision care.

Extensive research has consistently demonstrated the importance of regular eye examinations in detecting and managing various ocular conditions, including refractive errors like myopia, hyperopia, and astigmatism. Studies such as those by Vitale et al. (2008) and O'Donoghue et al. (2016) have emphasized the significance of annual eye exams in timely diagnosis and treatment of visual anomalies, thereby preventing potential vision impairment and related complications. Additionally, recent findings indicate a concerning rise in myopia incidence and progression, with projected global prevalence reaching alarming levels by 2050 (M. Ang, T. Y. Wong (eds.), Updates on Myopia, 2020) . Such trends underscore the critical need for vigilant monitoring and proactive management of refractive errors to mitigate associated risks and burdens on public health systems. These trends highlight that myopia is not only a problem of childhood, but continues to progress even into early adulthood. This progression has been shown to go beyond 18 years of age and into early adulthood. It is essential that as the rising generation moves into their adult years that they continue to monitor their vision and eye health yearly to mitigate changes in prescription and help to reduce myopic degeneration and the health challenges and risks that come alongside it. It is paramount that patients are seen yearly to not only catch myopia early, but treat often in an attempt to reduce the burden of care and the health risks associated with progression.



[\(Global Prevalence of Myopia and High Myopia and Temporal Trends from 2000 through 2050\)](#)

Moreover, prescription glasses serve not only as corrective devices but also as tools for assessing and monitoring changes in visual acuity and ocular health. Extending the expiration date of prescriptions may delay necessary adjustments to corrective lenses, potentially compromising patients' visual comfort and clarity. This sentiment is echoed in the findings of studies such as that by Holden et al. (2016), which highlights the importance of timely updates to eyeglass prescriptions for optimal visual outcomes.

Therefore, I urge careful consideration before implementing any changes to the expiration date of prescription glasses. Maintaining the current one-year expiration period aligns with best practices in optometry and prioritizes the long-term ocular health and satisfaction of our patients. Thank you for considering my perspective on this matter. I remain committed to promoting evidence-based practices and advocating for the best eye care for our patients.

On behalf of my patients, I oppose the proposed spectacle Rx change and think that the extension is not in the benefit of their health. Every year I refer patients to be tested and have the diagnosis of diabetes or high cholesterol that the year before they did not have a documented reason for the exam period of one year. Every year that these patients go undiagnosed and untreated increases the risk for permanent visual loss and/or heart disease, causing considerable cost that could be avoided with annual eye exams.

Ronald Benner, OD, President of the AOA, stated that, "Eye exams safeguard overall health by enabling the doctor of optometry to detect more than 270 serious health conditions."

From US News and World Report July 28, 2023: "When in 'over half the people you find something you need to do something about' – whether that's changing their eyeglass prescription, prescribing new glasses or referring them to treatment for an eye disease – an extra eye exam is worth the cost, says Dr. Beth Irving, a professor in the School of Optometry and Vision Science at the University of Waterloo in Canada and lead researcher on the study.

"The thing about most diseases, eye diseases as well, is that the longer you leave them, the harder they are to treat and the likelihood of good outcomes decreases," says Irving. "If you don't have regular exams, you miss that stuff."

Dr. Donny W. Suh, an ophthalmologist with the UCI Health Gavin Herbert Eye Institute in Irvine, California, agrees. He notes that people tend to think that eye exams are only necessary if a person is older or experiencing vision problems, but that that is a "common misconception." He adds that eye exams are not solely about correcting vision but also about assessing overall eye health and detecting potential silent diseases. Eye exams are important for people of all ages, as certain eye conditions can change and develop early in life and progress over time. "Looking into the eye can also help detect other diseases beyond those related to eye health or vision, he adds. "The eye is a window to our overall health." (How Often Should You Get a Full Eye Exam? By Claire Wolters)

Even people experiencing visual problems are not likely to seek help just because of the problem. According to information from the American Academy of Ophthalmology website:

"Survey findings showed that 64 percent of adults had at least one or more of these problems with their eyes or vision:

- Blurry vision
- Double vision
- Difficulty seeing at night
- Problems reading up close
- Seeing flashes of light
- Having red, watery eyes

Despite having these problems, only 13 percent of these people (about 1 out of 8) reported they had seen a medical doctor for an eye exam. ("Majority of U.S. Adults Have Eye Problems, But Few Seek Help, Survey Says" By Kierstan Boyd, Reviewed By Rebecca J Taylor, MD Published Sep. 14, 2016)

In researching the subject I only found two doctors who went on record that an annual exam was unnecessary. Both were tertiary providers who would both benefit from a later diagnosis and progression of the disease state.

Most insurances cover an annual exam. After doing the cost benefit analysis it appears that they see the benefit of early detection.

I hope that you will reconsider this change and continue to preserve precious vision.

Thank you for considering my perspective on this matter. I remain committed to promoting evidence-based practices and advocating for the highest standards of eye care for our patients.

I am confused and despondent that the board that is made up of Optometric physicians would even consider the change proposed to [NAC 636.670](#). I strongly oppose the change and hope the board does what is right for our patients.

I just want to take a quick moment to express my concern about changing the glasses expiration to 2 yrs.

I have been practicing here in Nevada for over 10 yrs. Before that, I was in a state that did have a expiration set for two years. We saw a lot of patients who would not continue with their yearly eye health examination because their glasses Rx was still current. Many of them, had ocular problems that were delayed in diagnosing and treatments started. It should be up to the prescribing doctor to determine when a glasses and contact lens Rx expires. We are the health care professionals.

Please do not extend the expiration on glasses. It needs to be up to the doctor.

As an American Board of Ophthalmology certified and practicing ophthalmologist in the State of Nevada, I am writing to oppose the proposed addition of a 5th requirement to the Nevada Administrative Code (NAC) 636.670 to read, "For spectacle lenses, a prescription shall be valid for a period of 24 months for patients ages 18-65 years old unless the prescriber documents a reason for a shorter period of time."

This legislative addition can adversely impact the vision of patients of optometrists and ophthalmologists (if this type of legislation is applied to ophthalmologists in the future) as patients' refractive errors frequently change more frequently than every two years, and they should not rely on or be locked into a two-year prescription as the best correction of their vision, especially if all insurance companies adopt this timing as a new standard of care. Eye care professionals should not have to document a reason for a shorter time period than 24 months on every spectacle prescription. Whether addition of this 5th requirement is for political reasons, as has been suggested, or not, it is not good medicine.

Materials for Item No. 5 re

- Certificates of deposits information

As I mentioned ... Once I receive the following information, you will hear from one of my team members who are responsible for opening all accounts. She will send out an email to each signer. This email will instruct each authorized signer to complete their required personal info, answer a security question, then they will print, sign and upload with a copy of their driver's license. Once each signer completes this portion ... they will receive a DocuSign for their e-signatures. Our new account person will also be available to assist, if anyone is having any issues with the opening process.

Needs List:

- Verification of Tax ID number from the IRS SS-4 form, W-9 or front page of tax return
- Website
- Minute meetings or letter on letterhead stating a meeting was held {date} and it was approved to open new Certificate of Deposit accounts with First Independent Bank. Then list the authorized signers & titles. Must be signed and dated.
- Signers full names/email addresses/cell phone numbers

We currently have the following CD specials, which were extended through April (see attached flyer). The minimum balance to open one of these CDs is only \$10,000. So, if you want to open one for the 3-month Term and one with the 5-month term, you can. Let me know if you have questions.

3-Month CD	5.00%APY
------------	----------

5-Month CD	4.75% APY
------------	-----------

Hope to hear back from you soon!

Have a wonderful weekend!

Kathy



Kathy Flamm

SENIOR VICE PRESIDENT/AREA RELATIONSHIP MANAGER

FIRST INDEPENDENT BANK, A DIVISION OF WESTERN ALLIANCE BANK. MEMBER FDIC.

T (775) 352-9600 x705600 | C (775) 560-3318 | kflamm@firstindependentnv.com

725 SPARKS BLVD | SPARKS, NEVADA 89434

#1 S&P GLOBAL MARKET INTELLIGENCE'S 50 LARGEST PUBLIC BANKS 2020

ONE OF FORBES' BEST BANKS IN AMERICA YEAR AFTER YEAR

Bank on Accountability



Western Alliance
Bank®



The Strength of Western Alliance

Q4 2023

Powering Our Economy

You matter to us. Western Alliance Bank and our divisions based in Arizona, California and Nevada understand the importance of small and mid-sized companies in powering our local economies and building our communities - and we are dedicated to serving you. Let us show you the value in choosing a bank that offers all the resources and capabilities you need, plus the personalized attention and market knowledge of a financial institution built just for you.

Excellent Match

You're an expert in your industry, so we're a great match. Western Alliance Bank's many specialized business lines bring you expert bankers, customized products and technology, tailored to specific sectors. Find out what we can do for you.

Strong Start to 2024

With industry leading asset quality; a strong balance sheet and diversified deposit base, Western Alliance Bank is off to a terrific start in 2024. We recently earned several #1 rankings in *Institutional Investor's* All America Executive Team Midcap 2023-24 - including for our Executive Leadership Team and Board of Directors in the banking category. Thank you for your business and continued trust in us.



Kenneth A. Vetdt

A. Vetdt
President and Chief Executive Officer

#1

Top-Performing Large Bank
with Assets \$50 Billion and
Above for 2023

AMERICAN BANKER

#2

U.S. Bank with Assets
\$50 Billion and Above

BANK DIRECTOR'S 2023
RANKING BANKING STUDY

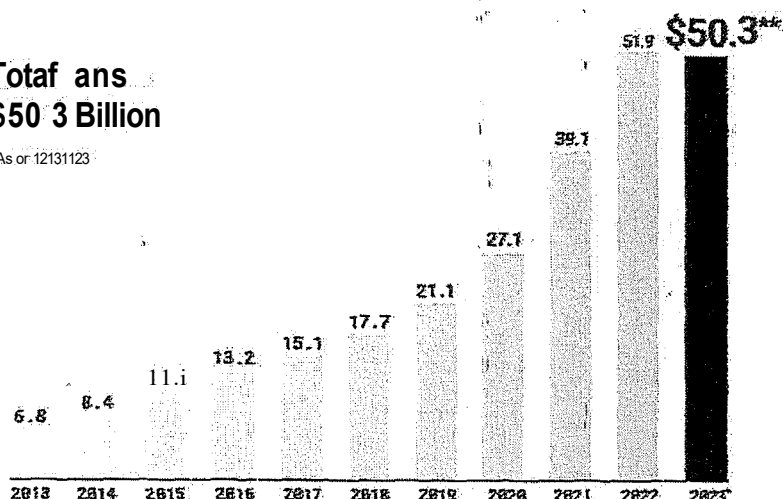
#1

CEO, CFO, Board and
Investor Relations Team

INSTITUTIONAL INVESTOR
2023-2024 ALL-AMERICA
EXECUTIVE TEAM MIDCAP

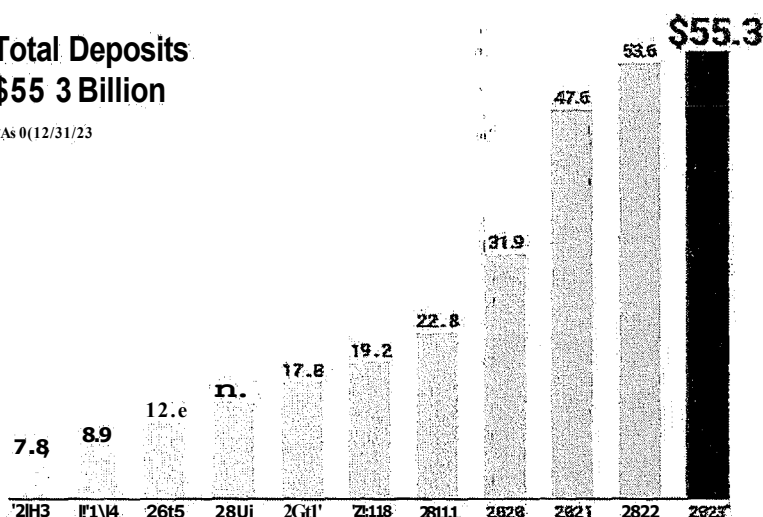
Financial Highlights

•As of 12/31/23



**Total HFI Loans

As of 12/31/23



Total Capital Ratio
13.7%

Total Regulatory capital
\$7.2 Billion

Year	Total Capital Ratio (%)	Total Regulatory Capital (\$Billion)
2009	12.4	6.99
2010	11.7	1.1
2011	12.2	1.6
2012	13.2	2.0
2013	13.3	2.5
2014	13.2	2.9
2015	12.8	3.3
2016	12.5	3.9
2017	12.3	5.5
2018	12.1	6.6
2019	13.7%	7.2

*AS of 12/31/23

*Capital ratios for 12/31/23 are preliminary until the Call Report is filed.

[illegible]

 \$6.1B Total Equity



\$6.1B Total Equity



\$70.9B in Assets



3,260 Employees



57/ Banking Offices

BBB/F3 Fish

The Standard in
Financial Rating
Institutions, Rated
281 Superior*

Received 10/10/23



Western Alliance

Western Alliance Bank
Alliance Association Bank
Alliance Bank of Arizona
America's Mortgage
Bank of Nevada
Bridge Bank
Digital Disbursements
First Independent Bank
Torre Pines Bank

Western Publishing Trust Company

(602) 389-3500

westernalliancebank.com



Materials for Item No. 6 re

- Nevada State Board of Dispensing Optician questions

Questions Discussed by NV Board of Opticians at its 4/18/2024 Meeting Pertaining to NV Optometry Laws, Regulations, and Best Practices

Optometry Practice

1. AB 432 now allows Optometrists to provide both synchronous and asynchronous telemedicine. We would like some clarity on which services an optometrist may provide via either type of telemedicine:
 - a. Section 19(9)(a) prohibits issuing prescriptions unless the optometrist performs a synchronous manifest refraction, but are there any requirements that the optometrist see patients in person at some point, or is a synchronous eye exam seen as comparable to an in-person comprehensive eye exam?
 - b. Section 19(9)(3) prohibits the issuance of a prescription based solely upon an auto refraction, but is that prohibition applicable only when the optometrist is practicing telemedicine? Is it allowable for optometrists to issue prescriptions based upon auto refractions performed at an in-person exam? Are there any restrictions on this practice?
 - c. Section 18 allows an optometrist to provide treatment via synchronous telemedicine without performing a comprehensive exam within the prior 2 years, *only if the doctor is taking over the treatment of the patient from another doctor and has access to the patient records provided directly by the former doctor*. Is this interpretation correct? What if the patient provides their own copies of their records to the new doctor (i.e. when a patient switches to a different practice)?
 - d. If a doctor takes over or joins the practice of another doctor, the new doctor *may* in that case duplicate or reissue prescriptions issued by the prior doctor. Is this interpretation correct? Again, what if the patient provides their own former records to the new doctor after moving from one practice to another?
2. NRS 636.027 states the chapter does not apply to physicians and surgeons duly licensed to practice in this State. Are there any restrictions on physicians in this state performing optometry at a practice owned by an optometrist (i.e. may a doctor licensed by the Board of Medical Examiners fill in at an optometrist's practice; is there any requirement to disclose they are not licensed as an optometrist)?

Employees of Optometrists

3. NRS 636.025 defines acts constituting optometric practice and prohibits the use of an autorefractor or other automated testing device by an unlicensed person, *unless performed under the direct responsibility of a licensed optometrist as authorized in NRS 636.346*. NRS 636.346 does not mention refractions specifically, but does require the "direct supervision" of the optometrist for various activities and states *the doctor must conduct the final examination of the patient*:
 - a. How does your board interpret the term "direct supervision". Does this mean the doctor must be physically present at the place of practice to oversee staff who are performing these activities?
 - b. Does your board interpret these provisions to mean a doctor's staff member may only perform autorefractions and fit patients with trial lenses when the doctor is on site and will be conducting a final examination of the patient during the same appointment?

- c. If the doctor does not need to be on site for these activities, what is the purpose of allowing unlicensed persons to conduct them if only the doctor may issue a prescription? May the doctor issue a prescription based upon information collected by staff when the doctor was not present for the exam at any point?
 - d. If the doctor may issue a prescription based upon information collected by staff, are there any restrictions on this practice, such as requiring a comprehensive eye exam and manifest refraction by the doctor at an initial appointment? Are there any restrictions on auto refractions generally, other than those mentioned in Section 19 of AB 432?
- 4. NRS 636.025 prohibits an unlicensed person from representing themselves as an optometrist or advertising the services of an optometrist. Does your board interpret this law to mean a doctor's employees must disclose to a patient whether the patient will be seeing the optometrist during an appointment? The patient may be under the impression they are seeing an optometrist for an eye exam when they are only seeing an employee of the doctor who performs an autorefraction.
- 5. Similarly, Section 28 of AB 432 states that an advertisement for an optometric examination, eye examination, vision examination, eye test, or vision test must include a specific disclaimer if certain services will not be provided. Does your board interpret this provision to mean the doctor and/or doctor's employees have a duty to disclose to patients at their appointments that they will not be receiving the listed services? Again, the patient may be under the impression they are receiving a comprehensive eye exam from the doctor when they are only receiving an autorefraction performed by an employee.

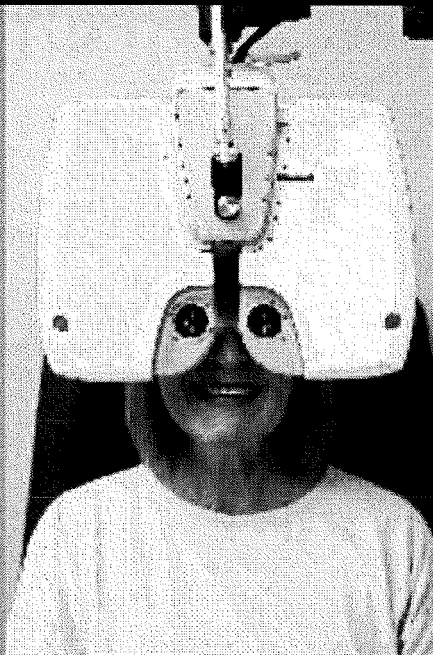
Two-Door Policies (Optometry and Opticianry Practices in Shared Business Spaces)

- 6. The minutes for the Board of Optometry's 1/29/2019 meeting detail complaints related to optometrists co-mingling operations with optical establishments owned by a large corporation. The minutes indicate your board intended to conduct an educational campaign and make regulatory changes to address the issue. Section 34 of R066-19 does address these issues, but we would like some clarification on how to deal with violations:
 - a. Many Nevada optometrists lease space and/or equipment from large optical retail corporations that employ opticians in the same retail space. Do you interpret your provisions to mean you have enforcement authority against corporations that pursue illegal leasing terms with Nevada optometrists (e.g. if the lease specifies the optometrist will be sharing physical space, equipment, electronic systems, or staff)? Or would enforcement action only be taken against the optometrist?
 - b. If there is a report of a corporation putting pressure on an optometrist and/or the opticians who are employed by the corporation to co-mingle operations, do you interpret this as a violation of optometry law? The Board of Opticians has some jurisdiction over optical businesses, but it does not relate to leasing agreements. Would you consider our boards as having co-jurisdiction over these complaints? If so, what do you see as the correct process for handling them?
- 7. We would also like to conduct an educational campaign for our licensees on these issues and provide them with written guidelines and information on where to direct complaints. Does your board have any interest in preparing and distributing a joint policy agreed upon by both boards?

Materials for Item No. 8 re

- Complaint 24-13 materials

**GRAND
OPENING**



**FREE
EYE EXAM**

**FOR KIDS AND ADULTS
SPECIAL FROM MAY 1ST THRU 31ST**

REDACTED



NEVADA STATE BOARD OF OPTOMETRY



MARIAH SMITH, O.D.
Board President

JULIE C. ALAMO-LEON, 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

April 16, 2024

via email only

Re: NSBO Complaint# 24-13

Dear Dr. -

This office has received information and a complaint alleging the 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. Free exams will occur at _____ from
May 1 - May 30, 2024.

The above-listed address is your registered primary practice location with the Board. Therefore pursuant to NRS 636.305(3), in order to determine whether or not there has been a violation of NRS/NAC 636/AB 432, please provide a written response to each allegation noted above, as well as the facts and circumstances of how the attached advertisement came into the public domain, your awareness of it, and if you approved it. And as to the examinations themselves for May 2024, how you plan to do so, be it in-person, remotely, or usage of technicians and the level of direct supervision you will implement for a month's worth of free exams. Please include any further information you believe would be useful for the Board to make a determination in this matter.

While the Board has the discretion to issue an order to cease and desist pursuant to NRS 636.290(2)(b), your reply to director@nvoptometry.org will be due on or **by the end of business April 19, 2024**. In light of the Board's next meeting on April 25, 2024 and your advertisement stating that free exams will start on May 1, 2024, **your response deadline will not be extended/continued.**

This letter, the advertisement, and your response will be presented to the Board in a double-blind manner on April 25, 2024, i.e., the Board is not being told who the complainant is or who the subject licensee is. Moreover, the materials associated with the presentation will be redacted to eliminate any identification of party identities, gender, locality, whether the practice is commercial or private, or whether the licensee is new to Nevada or not, etc. The Board will then determine next steps, if any.

The Nevada State Board of Optometry investigates all information received concerning possible violations of NRS/NAC 636/AB 432. 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, wherein your response is part of that process. This correspondence is sent pursuant to NRS 636.305(2) and NRS 636.310(3). As a licensee subject to an investigation, you are required by law to timely 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 636.302(1) (circulating or publishing, directly or indirectly, any misleading statement as to optometric services);

NRS 636.302(2) (advertising in any manner that will tend to mislead the public);

NRS 636.302(3) (unethical or unprofessional conduct for advertising, directly or indirectly, free optometric examinations).

And depending upon your response for how you plan to conduct these free examinations:

NRS 636.025(1)(f) (fitting of contact lenses under the supervision of the optometrist);

NRS 636.295(6) (false or misleading representations with respect to optometric services);

NRS 636.346(1) (assistant fitting ophthalmic lenses if acting under the direct supervision of a licensed optometrist);

NRS 636.346(3) (licensed optometrist performing final eye examination of the patient);

Respectfully,

Isl Adam Schneider

Adam Schneider, Esq.

Executive Director

April 18, 2024

Adam Schneider, Esq.
Executive Director
Nevada Board State of Optometry
director@nvoptometry.org

RE: NSBO Complaint #24-13

Dear Mr. Schneider:

I write in response to your letter dated April 16, 2024 regarding allegations that I may have violated NRS 636.302 with respect to advertisement for free eye examinations to occur at [REDACTED] NV [REDACTED] from May 1 through May 31, 2024.

Until I received your letter, I was unaware of the advertisement. It was posted on social media by [REDACTED] without my knowledge or consent. I had planned to start working as an independent contractor at [REDACTED] a new clinic at the address above, on May 1, 2024, and I had no prior knowledge they had advertised any optometry services, let alone free examinations.

I realize that as a licensee I am responsible for complying with the statutes and regulations of the Nevada State Board of Optometry. Had I known that [REDACTED] was considering such advertising, I would have taken appropriate steps to prevent it. [REDACTED] did not inform me of the planned advertisement, and since I had not yet started working with them I was not present in any setting where I could have noticed on my own. I understand the advertisements were posted only two weeks ago, but I do not follow [REDACTED]'s social media accounts and never saw them online.

I would like to point out that the [REDACTED] address above is not my current registered primary practice location with the Board. I had notified the Board that my primary practice address would be the [REDACTED] address as of May 1, 2024.

To date, I have not provided any direct or indirect patient care at the [REDACTED] location or with [REDACTED] in general, nor have I worked at the [REDACTED] office or with the staff or management in any regard.

Upon receiving your letter and learning of the advertisement, I instructed [REDACTED] to immediately remove any and all advertisements related to optometry services, which I am assured they did. I also informed them that I would not be working with them for the foreseeable future.

I regret that this situation arose, and that the Board had to utilize its resources to address it. I respectfully request that the Board close this Complaint without action against me. Should you have any questions, please contact me at [REDACTED].

Thank you for your time and consideration,
[REDACTED] OD FAO Lic [REDACTED]

cc: [REDACTED] Esq.
[REDACTED] Esq.

April 18, 2024

Nevada State Board of Optometry
director@nvoptometry.org

RE: Complaint #24-13, Statement in Support of [REDACTED] O.D.

To Whom It May Concern:

Please accept this letter from [REDACTED] in support of Dr. [REDACTED]

[REDACTED] had planned to open a new optometry clinic located at [REDACTED], North [REDACTED] NV [REDACTED]. The optometry clinic was to be focused on treatment of underserved populations. We had also planned for Dr. [REDACTED] to provide optometry services there as an independent contractor starting May 1, 2024.

To celebrate the grand opening, [REDACTED] posted advertisements on its Facebook and Instagram accounts approximately two weeks ago advertising free eye exams through the month of May. [REDACTED] planned and posted the advertisements on its own, without consulting or informing Dr. [REDACTED]. Until Dr. [REDACTED] received notice of this Complaint, and then notified us, we had been unaware that such advertisements were prohibited, and Dr. [REDACTED] had been unaware we had posted the advertisements.

We immediately took down the advertisements once we learned of the issue. Plans to open the optometry clinic are on indefinite hold so we can make sure there are no more missteps and that we are in compliance with state law and the Board's regulations. [REDACTED] is in the process of directly contacting each patient who scheduled an eye examination from the advertisements to explain the situation, and to offer to notify them once the optometry clinic is accepting patients.

We wish to make it very clear to the Board that [REDACTED] deserves and accepts full responsibility for the advertisements. Dr. [REDACTED] has not even started working with [REDACTED], and was oblivious to the advertisements until she received the Complaint. Admittedly, it had not even occurred to us to include Dr. [REDACTED] in our marketing decisions.

We sincerely apologize for this error, the stress it has caused Dr. [REDACTED], and the inconvenience it has created for the Board. We respectfully request that the Board not punish Dr. [REDACTED] for our mistake, she had no way of knowing our marketing plans because we did not share them with her.

Thank you for considering this statement. Please contact me at [REDACTED] if you have any questions.

Good afternoon Adam,

This email is to confirm that the advertisement in this complaint has been removed. _____ administration and their marketing team confirmed that they rechecked today that all posts and forwarded posts have been deleted. They removed the advertisement immediately when I contacted them upon receiving the information in the complaint. Today they confirmed that their marketing team scrubbed the internet of any trace of the advertisement that they are able to access. My attorney also confirmed that she cannot find the advertisement anywhere online. I have searched google and facebook and see no trace of the advertisement as well.

Please let me know if there is anything else I can do to support the resolution of this complaint.

Thank you,

Materials for Item No. 9 re

- March 28, 2024 Board meeting minutes

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

March 28, 2024

1. **Action Item 1. Roll Call, Call to Order, Welcome, Introductions.** President Mariah Smith, O.D. opened the live meeting at 12:05 p.m. President Smith and Board members Jeffrey Austin, O.D., Julieta Alamo-Leon, O.D, and Drew Johnson were present via Zoom. Executive Director Adam Schneider attended via Zoom. Deputy Attorney General (DAG) Todd Weiss, Esq. attended via Zoom. Pursuant to AB219, public telephonic access number 669-444-9171, meeting ID 837 2445 5896, Passcode 462735 were read into the record.
2. **Board Member Dr. Alamo-Leon introduction.** Dr. Alamo-Leon was introduced as a new member of the Board.
3. **Public Comment.** President Smith invited public comment. Dr. Girisgen read a statement into the record in opposition to proposed NAC 636.670(5). Dr. Kopolow read a statement into the record in opposition to proposed NAC 636.670(5). President Smith stated all prior-received public comments are already incorporated into the meeting minutes. Dr. Johndra McNeely of the American Optometric Association (AOA) read a statement into the record in opposition to proposed NAC 636.670(5) requesting to leave 636.670 as written and prescription lengths being at the discretion of the optometrist, emphasizing the doctor-patient relationship and prescription lengths factoring in knowledge of patient history, daily vision demands, amount of screen time and potential for vision changes without the need for additional documentation, that over 270 diseases can be discovered during a comprehensive eye examination by a doctor of optometry, that all optometrists have patients who do not present to primary care but do present yearly for an eye examination where hypertension, diabetes and sometimes cancer are diagnosed of asymptomatic patients, so the issue is one of patient protection, public health, and consumer protection should patients wait 23 months not knowing their prescription had changed. Terry Ogen of the Nevada Optometric Association (NOA) on behalf of Dr. John David read a statement into the record in opposition to proposed NAC 636.670(5), then stated the NOA itself is opposed to proposed NAC 636.670(5).

4. **Action Item- Consideration and approval of January 31, 2024 Board Meeting Minutes.** Dr. Smith confirmed all Board members had looked over the proposed Minutes. Public Member Johnson moved to accept as proposed. Dr. Smith seconded. Director Schneider sought DAG Weiss's counsel regarding procedural properness regarding Dr. Austin's ability to vote when he was not present for the January 31, 2024 meeting but privy to the meeting materials, that Dr. Alamo-Leon was not privy to the meeting, and that a member of the Board at the time is no longer on the Board who did attend the meeting. DAG Weiss advised there is no prohibition on Board members voting to approve meeting minutes when not present at the meeting, and recommended all current Board members cast votes regarding the Minutes. Motion passed unanimously.
5. **Action Item- January 31, 2024 Board meeting statutory stipend, proposed waiver of same.** Director Schneider stated NRS 636.175(5) allows for \$150 to each board member per meeting. A Board member had asked that this item be placed on the agenda in good faith to the membership that the Board members should waive \$150 for that meeting. President Smith moved to waive payment to all Board members for that meeting. Public Member Johnson seconded. Motion passed unanimously.
6. **Action Item- Consideration and approval of January 24, 2024 Board Meeting Minutes.** Dr. Smith confirmed all Board members had looked over the proposed Minutes. Public Member Johnson moved to accept as proposed. Dr. Austin seconded. Motion passed unanimously.
7. **Action Item- Consideration and approval of January 24, 2024 Workshop Meeting Minutes.** Dr. Smith confirmed all Board members had looked over the proposed Minutes. Public Member Johnson moved to accept as proposed. Dr. Austin seconded. Motion passed unanimously.
8. **Action Item- NAC 636 workshop results, NAC 636.670(5) discussion.** Director Schneider stated the results are in the meeting materials converted into a legislative format. Director Schneider addressed the next prong of this Item that public comments about 670(5) had been elicited and part of the meeting materials, and during the Public Comment portion of this meeting, and then opened the floor to the Board to discuss the intent and purpose of proposed 670(5).

Public Member Johnson stated 29 States have 2-year prescriptions, and 670(5) does not impact examination frequency. 670(5)'s intent is to help healthy patients with no massive vision changes from year to year, and does not impact children or seniors. The opposition to 670(5) does not have anything to do with public health but instead is to generate more business more frequently. The goal of the Board is not to create an economic protectionist cartel, and 670(5) helps achieve that goal.

Dr. Austin stated 670(5) allows doctors discretion based on a plain reading of the proposed language, and while not in the text of 670(5) does not require each doctor to document each prescription length. Instead the chart as a whole will justify the length, and therefore 670(5) does not provide an additional burden upon the prescriber. The opposition fails to differentiate glasses expiration date versus a recall date which could be in a month or six-weeks for dry eye or a medication change to treat glaucoma. Patients presenting back to the optometrist at the time of a scheduled annual exam does not always occur anyway with prescription lengths of 1-year. But patients do present back to the optometrist when they are not seeing well and get their glasses checked at that time anyway. Glasses themselves do not expire and some patients

wear their glasses for twenty years. Prescriptions are based upon refraction change, and not a medical issue with the patient. Patients with beginning phases of cataracts or keratoconus might be shorter expiration dates. Doctors need to better educate their patients on the differences between glasses expiration versus follow-up examinations.

Dr. Alamo-Leon stated in her experience optometrists are the first-line, primary care doctors for patients. A goal of the Board is safety of the community. Insurance companies consider glasses as a material and not a medical device whereas optometrists are trained that glasses with a prescription are a medical device. Analogy made to primary care physicians prescribing hypertension medication not being more than a year. Dr. Alamo-Leon agreed with Dr. Austin that some patients need to be seen more frequently than a year. If 670(5) is adopted for a two-year expiration, patient care may be worsened for patients who use their optometrists as their primary care with a medical necessity to be examined yearly. Further agreed with Dr. Austin when it comes to the need for increased patient education, and that glasses are a medical device.

Dr. Austin discussed the differences of medical conditions in that hypertension can kill a patient whereas glasses will not and that poor vision does not damage the eye. Dr. Austin emphasized 670(5) does not regard contact lenses which are placed directly onto the eye and could cause significant damage to the ocular surface of the eye.

Dr. Alamo-Leon commented that persons may not know that they have poor vision and incorrectly perceive that they see fine. In order for the patients of Nevada to be safe and treated as well as possible, a one-year expiration makes more sense.

Public Member Johnson explained the reason he became aware of this issue was the amount of persons who use online vision tests, which are not a substitute for an in-person examinations. Annual prescriptions for young and healthy patients results in patients not taking the prescription seriously, and 670(5) would avoid patients thinking they just had an exam and they want their next exam to be cheaper and do it via online vision tests instead. Public Member Johnson stated the AOA's study showed no specific evidence supporting annual exams.

President Smith sought Dr. McNeely's input. Director Schneider commented Dr. McNeely was signed-on, but no longer actively participating in the meeting.

Public Member Johnson answered Dr. Girigsen's chat question about what scientific studies does Public Member Johnson have to support his position. Public Member Johnson stated 29 other States do so, and there is no difference in early detection of diseases with a two-year glasses expiration.

President Smith stated the question she wanted to ask to Dr. McNeely was in the States who had gone to a 2-year glasses prescription expiration, has it changed the way that insurances allow for eye exams in frequency or coverage. President Smith stated 670(5) will likely not change the way she practices on a day-to-day basis when there is no additional requirement about the prescriber to chart a specific lesser time of expiration or to state that Nevada is a dry climate and might affect the ocular surface or tear film to support the expiration length.

Director Schneider asked for DAG Weiss's counsel on the procedural next steps now that there has been a workshop, public commentary, and this meeting. DAG Weiss described the process

with Legislative Counsel Bureau (LCB). Options included submitting to LCB as-is where persons in opposition will have another opportunity to oppose, or conduct a supplemental/secondary workshop before submission to LCB, or submit to LCB with changes based upon a majority vote to do so. President Smith expressed hesitancy on submitting 670(5) if insurance coverages were affected with a two-year expiration.

Public Member Johnson discussed a proposed motion to submit the workshop results to LCB with the understanding 670(5) is subject to possible revision based upon subsequently obtained information regarding insurance coverage. Dr. Austin stated if insurance coverage was being reduced with 2-year expirations then he would not endorse 670(5) but to his knowledge insurance coverage is not being impacted. DAG Weiss commented any board can inform LCB informally about a possible change, but that LCB controls its own process so there is no guarantee that LCB will listen to the Board. DAG Weiss advised to move onto another matter while awaiting Dr. McNeely to come back. Director Schneider later stated he would attempt to contact Dr. McNeely directly to answer President Smith's question. Discussion as to special-set meeting if information from Dr. McNeely provided sooner than the Board's next meeting.

Dr. Austin requested removal of the proposed edit to NAC 636.210(1)(b) about specialists, and to instead make those proposed edits a policy. The NAC already provides authority to the Board to approve specialties (identified post hoc herein as "unless he or she or has been certified by a board for certifying specialties approved by the Nevada State Board of Optometry.") Doing so will allow the Board to keep pace with professional society and organizations' changes such as the newest one from the American Academy of Optometry for diplomate status for comprehensive eye care. NSBO has authority to approve to certify any specialty per 210(1)(b) itself. President Smith agreed, but noted the board policy are not enforceable in the same way NACs or NRSs are.

Public Member Johnson left the meeting at 1258pm, and that he would return in approximately 15-20 minutes.

Dr. Austin asked for DAG Weiss's counsel. DAG Weiss, based upon this being the will of the Board, advised it was appropriate to make the workshop proposal into a Board policy.

DAG Weiss advised on foregoing Items that needed a vote until Public Member Johnson returned.

9. **Executive Director update re license renewals for 3/1/2024- 2/28/2026.** Director Schneider reported 554 total licensees comprised of 511 active and 43 inactive, 7 new licensees since March 1, 2024, and 806 practice location transactions.
10. **Board of Dispensing Opticians cross-over issues.** Director Schneider discussed that he and the Board of Dispensing Opticians' Executive Director are encountering similar issues and public complaints. Therefore the Board of Dispensing Opticians would be providing a list of questions for the Board of Optometry to discuss its position on such topics.
11. **Action Item- Website maintenance package.** DAG Weiss first provided approval for votes to take place on administrative and non-controversial Items. The Board spent approximately \$2600 on website maintenance in the prior year, and therefore the proposal would be cheaper and provided needed maintenance and security, and doing so would help avoid another

website crash. Dr. Smith moved to approve the expense. Dr. Alamo-Leon seconded. Public Member Johnson not present. Motion passed unanimously (3-0).

12. **Action Item- ED CEs re telehealth and ophthalmology/vision loss litigation.** Director Schneider requested the Board authorize \$197 per class for legal education related to his job duties. Dr. Smith moved to approve the expense. Dr. Alamo-Leon seconded. Public Member Johnson not present. Motion passed unanimously (3-0).
13. **Action Item- Foreign ophthalmologist eligibility for Nevada optometry license.** Director Schneider stated an ophthalmologist (OMD) in South Korea was seeking admission to the Nevada State Board of Optometry. Director Schneider informed the Board of passing NBEO scores and ECFMG (Educational Commission for Foreign Medical Graduates). Director Schneider brought up the statutes that as a condition precedent, the applicant has to be an optometry school graduate, and that there are no exceptions within the statutes as to OMD internship, residency, or fellowship in the United States, let alone in a foreign country. There are no preceptorships or sponsoring licensee programs as an alternative to admission discussed in the statute. Director Schneider discussed the possibility of an Application by Endorsement if admitted to another State's OD Board. Director Schneider asked for the Board's position. Dr. Austin stated the applicant is an OMD, and not an OD, and therefore is not eligible. President Smith agreed, but stated society is global and mobile, and asked that Director Schneider ask ARBO on what other States do in similar situations but that there is no statutory flexibility for the Board at present. Dr. Alamo-Leon stated OMD schooling is not the same as OD schooling. Dr. Austin agreed. Dr. Smith moved to tell the OMD of the Board's position, and for Director Schneider to ask for ARBO's knowledge on the topic. Dr. Austin seconded. Public Member Johnson not present. Motion passed unanimously (3-0). Later discussion as to possible school in Boston offering foreign-trained medical doctors from certain countries a 2-year program for an optometry degree.
14. **Action Item- Commercial surveillance/security cameras in leased optometry practice.** Director Schneider explained the meeting materials of the licensee's inquiry, Director Schneider's response to the licensee, and that the licensee did not submit the commercial lease for the Board's review. Director Schneider speculated this was a private business dispute, but needed the Board's position on the issue to advise the licensee. Drs. Smith and Austin agreed with Director Schneider's assessment, and that the Board does not have jurisdiction over the issue. Dr. Austin discussed possible HIPAA violations. Dr. Austin moved for Director Schneider to tell the licensee the Board's position. Dr. Smith seconded. Public Member Johnson not present. Public Member Johnson not present. Motion passed unanimously (3-0).
15. **Action Item- Tax Commission proposed legislation re frames/lenses sales tax.** Director Schneider explained the meeting materials of NRS 372 stating optometrists are not retailers for certain products, but the proposed NAC potentially impacts that status and is worthwhile for the membership to know if their businesses are in compliance with relevant tax codes. Director Schneider stated a meeting with the Tax Commission's Executive Director or DAG is in the process of being scheduled. President Smith stated her understanding that taxes are paid by the optometrist before sold to the patient where the patient does not pay sales tax, but that in a retail setting the same would not be true and therefore the change in the code may not necessarily be impacting optometrists. President Smith moved for Director Schneider to explore the issue and report back on his results. Dr. Alamo-Leon seconded. Public Member Johnson not present. Motion passed unanimously (3-0).

16. **ARBO Model Practice Act.** Director Schneider explained that ARBO was seeking all executive directors of all State Boards to obtain commentary from their respective Boards. Director Schneider stated there has been nothing provided from ARBO that it was ARBO's intent to force all States to rewrite entire optometry legislative sections. President Smith talked about the Model Practice Act being a good template when starting from scratch and providing insight when Boards were thinking about adding different sections. Director Schneider commented his review of NRS 636, NAC 636 and its workshop, and AB 432 showed many commonalities already. Dr. Austin stated in some instances that Nevada law was more detailed than ARBO's.
17. **Action Item- ARBO ED Scholarship for June 2024 convention.** Director Schneider requested approval of a letter to ARBO for a scholarship to ARBO's June 2024 convention. Doing so would save the membership money if accepted. President Smith proposed a budget item for the Director or a Board member to attend yearly. President Smith moved to approve the letter and to pay for Director Schneider to attend should he not receive the scholarship. Dr. Austin seconded. Public Member Johnson not present. Motion passed unanimously (3-0).
18. **Action Item 16. Complaint 24-11.** Public Member Johnson reentered the meeting. Director Schneider read a statement in the record:

NRS 636.310(3) authorizes the Executive Director to notify the Board of an investigation for further consideration by the Board if deemed necessary by the Board after an investigation.

This public complaint submitted on or about March 5, 2024 is being presented in a double-blind manner, i.e., the Board is not being told during the course of this agenda item who the complainant is or who the subject licensee is.

The materials associated with this agenda item are redacted to eliminate any identification of party identities, gender, locality, whether the practice is commercial or private, or whether the licensee is new to Nevada or not.

I am requesting the Board not ask any questions of me about such information as this is immaterial to the Board's evaluation of the allegations, the licensee's response and the licensee's submitted documents in support of the response. As I have made the licensee aware telephonically on March 20th and in writing on March 27th, the purpose of this double-blind presentation is to afford the licensee due process and avoid any undue influence upon the Board by mere virtue of who the complainant may or may not be or who the licensee may or may not be, and in order to balance the statutory directives of protecting the public while balancing the licensee's due process rights.

The allegations regard a presentation on March 5, 2024. The complainant-patient's allegations are contained in the redacted inquiry letter that are part of this meeting's materials.

The core aspect of the allegations is the lack of notice to the patient that the examination would be performed by a non-licensee technician and only upon the patient asking did the technician state he is only a technician and not a doctor. The licensee's records and response dispute this, stating quote "Patient is aware the telemedicine visit is by a technician."

There are disputed issues of fact when it comes to the education given to the patient, particularly when the prescription was appx a -8. The complainant alleges no education was

provided, let alone any mention of risks of retinal detachment or signs and symptoms of retinal detachment. The licensee's records dispute this, stating quote "RD precautions given- flashes, floater, veil, loss of vision RTO ASAP." No date or time-stamps appear on the licensee's records. Therefore it is unknown if the records were prepared contemporaneous or upon receipt of the inquiry letter. It is also unknown if those chart quotations are a function of EMR auto-population.

The patient alleges no doctor-patient communications occurred, be it in-person or via remote technology or telephone.

The licensee's response is that information and diagnoses from the technician came from the licensee to the technician to convey to the patient. The licensee's response also asserts that the licensee performed the final examination of the patient before discharge.

The licensee's office billed the visit in question as a comprehensive examination for a new patient.

The licensee's response does not address the question of what kind of exams they believe are allowed to be performed via telehealth. Their response asserts that they both directly supervised the non-optometrist technician during the exam and that the licensee performed the final eye exam, but there was no further information or explanation provided as to how that was done.

After discharge, the patient looked up the licensee and/or the licensee's practice location and discovered factually similar reviews of other patients likewise not being told the examination and prescriptions were being performed by a non-optometrist technician. These online reviews were provided to the licensee for a response, with the inquiry letter placing the licensee on notice of possible systemic violations of telehealth law. The licensee's response to these was that the reviews are hard for the licensee to believe. The licensee did not refute the online reviews, or describe the licensee's business model, or state the licensee's belief on how or why the licensee's practice was specifically adherent to any specific portion of AB 432 Section 19, other than to say the licensee is in compliance with the laws listed in the inquiry letter in a summary fashion.

One of the licensee's submitted materials included photographs of an exam room. Pages 2, 7 and 8 of that exhibit show two pieces of paper on the wall or in picture frames. On March 26, 2024 at 456pm, 725pm, and on March 27, 2024 732am., the licensee was requested the licensee to send those documents to show the Board what is being displayed in the licensee's exam room. At the time of this meeting, the licensee has not submitted any such documents.

The Order to Produce Records upon the licensee specifically requested "Any text messages or phone records to and from your technician on or about March 5, 2024 regarding the examination and prescription provided to patient" and "Any metadata of your electronic medical records system showing your access on or about March 5, 2024 into the electronic chart of patient." The licensee's response did not include any responsive information to these two subpoena items.

I will now ask the Board to deliberate and discuss what it wants to do next in this matter. Options available to the Board include closure of the investigation, issuance of a letter

of concern then closing the investigation, authorization of the Executive Director to issue additional subpoenas and/or request a supplemental response from the licensee, or request that the Attorney General's office pursue a formal complaint against the licensee and prosecute the matter as provided under NRS 636.325. If the Board votes for authorizing a formal complaint, which the Executive Director is not advocating for one way or another, it will be up to the Attorney General's Office to apply laws to facts and decide what specific charges should be included in the formal complaint.

Dr. Smith stated the facts show a disregard for how telehealth laws are written, and the licensee's responses to the allegations were non-useful and indirect. Dr. Smith requested a formal complaint and hearing by motion. Dr. Austin seconded. Dr. Alamo-Leon agreed. Motion passed unanimously.

19. **Public Comment.** Dispensing Optician NGadi Foreman, license no. 557, sought the Board's position on dispensing opticians employed by a corporate retailer subleased to an independent doctor of optometry who has no previous records of the patients, are being asked to print work orders for the technicians to work off of to perform asynchronous exams, and that the technicians are purporting to be the doctor and not advising the patients they are technicians with no eye doctor on site, and the technicians are making medical recommendations. Director Schneider requested going to the Board website and under the For the Public tab is a Submit Complaint option. Dr. Austin implored that she do so and thanked Ms. Foreman for making the Board aware.
20. **Action Item- Adjournment.** Dr. Austin moved to adjourn the meeting. Public Member Johnson seconded. Motion passed unanimously. The meeting adjourned at 1:36 p.m.

* * * * *

FY 2023-2024 Regular meeting schedule

Thursday 4/25/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 5/30/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 6/27/2024 12:00p.m (pst) Reg. Bd. Meeting- phone or Zoom

FY 2024-2025 Regular meeting schedule

Wednesday 7/31/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Wednesday 8/28/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on April 25, 2024.

Adam Schneider, Executive Director