

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING January 23, 2025

1. **Call to Order.** Mariah Smith, O.D. opened the live meeting at 12:03p.m.
2. **Roll Call.** Dr. Smith read the Zoom log-in information into the record for AB 219 compliance as Meeting ID: 775 883 8367, Passcode: 8367, telephone 1 669 900 6833. Deputy Attorney General (DAG) Joseph Ostunio, Esq., and Board members Sally Balecha, Mariah Smith, O.D., Jeffrey Austin, O.D., Julieta Alamo-Leon, O.D., and executive director Adam Schneider, Esq. were present via Zoom.
3. **Public Comment.** Dr. Smith invited public comment. No comments provided.
4. **Action Item. Continuation of Complaint 24-12.** Director Schneider stated this public complaint is being presented in a double-blind manner, i.e., the Board is not being told who the complainant is or who the subject licensee is, and the materials associated with this agenda item are redacted to eliminate any identification of party identities.

As discussed at the Board's prior meeting, and at the Board's request, additional questions were issued upon the licensee's counsel and the licensee responded as contained in the meeting materials.

Director Schneider discussed the lack of actual co-management between the patient, the licensee, and the OMD, along with an affirmative representation from the OD that the OD has no ownership in the surgery center or the OMD's practice. Director Schneider noted that some of the supplemental responses were not consistent with documents in the meeting materials, but in light of no co-management established or any financial interest or any financial gain obtained, the Board needs to decide "if there is any there there" when the gravamen of the complaint is between the OMD and the patient, of which the Board of Medical Examiners was provided this investigation per the Board's vote at its December meeting.

Dr. Austin agreed with Director Schneider's summary, noted the lack of co-management, and moved to discharge it completely. Further discussion from Dr. Smith noted the discrepancies in the response compared to the facts and if potential lying to the Board is unprofessional conduct

versus an oversight by the licensee in the supplemental responses, where such discrepancies are obvious including if it is the OD's understanding that the surgery center was closed in 2024 why is the OD participating with the surgical coordinator to have surgery there in 2024. Dr. Smith questioned even if the responses are proven untrue after further investigation and expenditure of resources to identify the OD's unprofessional conduct in this investigative process, is it worth the Board's resources to do so.

Dr. Alamo agrees there is nothing here to continue with the complaint for formal charges, and although all the answers were not as forthcoming as what the Board would have preferred, it is not something that the Board in the interests of public safety should take on. Public Member Balecha agrees.

Dr. Smith seconded the Motion. Motion passed unanimously.

After the conclusion of public comment at Item 13, Dr. Smith requested to revisit the vote and what happens if other facts come to light presently unknown to the Board but which might change the Board's position. Colloquy and advice from DAG Ostunio regarding proper administrative law process. DAG Ostunio stated an option per DAG Weiss, if the Board voted to do so, is to keep it open in the event new information comes to light from the Board of Medical Examiners' investigation upon the surgeon. Advice from DAG Ostunio on correct process for first a vote to repeal, then a vote to re-open.

Dr. Smith moved to repeal the prior vote. Dr. Alamo seconded. Motion passed unanimously.

Dr. Smith moved to keep the investigation open, for the possibility of supplemental information not presently known to the Board or pending the results of the Board of Medical Examiners investigation upon the surgeon. Dr. Alamo seconded. Motion passed unanimously.

5. Action Item. Consideration and approval of Minutes for December 11, 2024 regular Board Meeting. Dr. Smith confirmed all present Board members had an opportunity to review the draft. Dr. Alamo commented it to be very good and what the Board discussed. Dr. Alamo moved to accept as proposed. Public Member Balecha seconded. Motion passed unanimously.

6. Action Item. Consideration and approval of December 11, 2024 Notice of Intent to Take Action on Regulation R066-19(8)(4) Minutes. Dr. Smith confirmed all present Board members had an opportunity to review the draft. Dr. Smith moved to accept as proposed. Dr. Alamo-Leon seconded. Motion passed unanimously.

Director Schneider stated he waited the requisite 35 days and filed the temporary regulation with all requisite agencies. Once the regulation is posted with a website link, the Board will issue a Newsletter to advise the membership, and will update the website's Optometry Law section.

7. Action Item. Consideration and approval of December 11, 2024 Notice of Intent to Take Action on Regulation R066-19(12). Dr. Smith confirmed all present Board members had an opportunity to review the draft. Dr. Alamo moved to accept as proposed. Dr. Austin seconded. Motion passed unanimously.

Director Schneider stated he waited the requisite 35 days and filed the temporary regulation with all requisite agencies. Once the regulation is posted with a website link, the Board will issue a Newsletter to advise the membership, and will update the website's Optometry Law section.

8. Executive Director report re BDR 18-301/SB 78. Director Schneider stated he is prepared to report on old news, new news, and from the governmental perspective. The old news is that SB 78 is the superboard bill, and as-is lists Optometry consolidated with Opticians and Audiology and Podiatry. So the materials include where Optometry is mentioned in SB 78, along with an overview and concerns, and an alternative proposal being discussed by similarly situated boards of limited membership and limited staff. But the new news is the proposal for Optometry to be consolidated with Opticians only, where it would be 2 optometrists, 2 opticians, and 1 public member. B&I has invited comments, and Director Schneider stated there appears to be a conflict of professional interests and education levels, and discussed the potential of issuing a newsletter to the membership for their comments to then relay to B&I.

As to the chances that the superboard bill gets passed, Director Schneider has been in discussions with the Board's legislative consultant. It is unclear how much of a priority this is for the Governor's Office and might be something deferred to Business & Industry to get passed or not. In the Governor's State of the State, he also announced a significant government reform to split DHHS into two pieces where Nevada Medicaid, the Silver State Health Exchange, and the Public Employees' Benefits Program would be managed by a new organization called the Nevada Health Authority. This is a significant change and a reorganization of this type will take significant effort to advance. That appears to be the higher priority than the superboard concept, in which case the superboard idea could be placed on the back burner if the Governor's Office has to spend significant time on the DHHS reorganization.

Dr. Smith stated we're still in the waiting period. She commented that B&I had solicited opinions, and she in her individual capacity and not on behalf of the Board itself, has told B&I about her concerns about the proposed consolidation and conflict of professional interests when optometry is healthcare and opticianry is the sale of glasses and contacts, and the difficulties to move forward regarding scope of care when various items came to a vote, but potentially all of this is beyond the Board's control at this point in time. It is her understanding that Dr. Koenig is opposed.

As to the difficulty in voting, Director Schneider discussed that in 2-2 ties the tie-breaking vote would always fall upon the public member who would not have the same level of education as optometry members on matters of practicing medicine or know the differences in the two professions overall.

Dr. Austin agreed. While the proposal is well-intentioned, he opposes it, and the NOA be made aware for their membership to know to support or oppose.

Dr. Alamo agreed. When B&I asks, the Board needs to be forthcoming on how we feel and we are not in agreement. The bill is well-intentioned, but not in the best interests of the public or optometry or the opticians.

Dr. Smith stated her understanding that Dental is not being reconfigured, which is probably the closest in education level as optometrists.

Director Schneider stated he would agendize for the next meeting.

9. Executive Director report re Certificate of Deposit status. Director Schneider stated in conjunction with Dr. Alamo as the defacto treasurer, the certificate of deposit was renewed at a 4% Annual Percentage Yield for another 150 day term. It has yielded nearly \$6,000 since the date of deposit. The renewed COD had to be reduced to an amount \$105,000 because \$100,000 had to be withdrawn for the Board's working capital to last until renewal application fees start to come in November 2025.

10. Action Item. Possible NRS 636.2893(3) modification (glaucoma certification by co-management) for possible inclusion into BDR 151. Director Schneider summarized the statute and that only a Nevada-licensed OMD can provide attestation of the OD's co-management experience before the OD can obtain glaucoma certification. To the best of Director Schneider's knowledge as a layperson, glaucoma is glaucoma and is no different in Nevada patients than in non-Nevada patients.

Director Schneider asked the Board if it was willing to expand the statute for non-Nevada OMDs being able to provide attestations for the OD-applicant in obtaining glaucoma certification. If so, it would be placed into Dr. Koenig's BDR 151 for the summer 2025 legislative session. Director Schneider directed the Board to the proposed revised statute, and if any changes were needed before submission to LCB and Dr. Koenig.

Dr. Austin discussed the statute, and a willingness to expand the statute. Dr. Smith agreed. Dr. Alamo agreed. Public Member Balecha agreed.

Dr. Smith moved to include the proposed revised statute into Dr. Koenig's BDR 151. Dr. Alamo-Leon seconded. Motion passed unanimously.

11. Executive Director report re licensing transactions since start of FY2025. Director Schneider listed the following numbers as stated in the Agenda:

12/5/2024 - 1/15/2025	FY2025 cumulative
New licenses: 1	10
Licenses by endorsement: 2	7
Glaucoma: 1	4
OPAC: 1	16
Fictitious Name: 3	21
Location changes: 13	45
Additional locations: 4	36
LOGS: 5	38
PRR: 5	24
Refunds: 2	5
Mobile: 0	1
Substitute location: 1	5
Public complaints: 2	8
2026-2028 CE review: 0	2

12. Action Item. Board Policy #5 DEA-approved continuing education credits for renewal cycle ending February 28, 2026. Director Schneider reminded the Board of its vote at its September 2023 meeting to accept DEA-approved CEs, but it was limited to only the prior cycle of 2024-2026. Director Schneider inquired into the Board if it wanted to extend that vote to the 2026-2028 cycle.

Dr. Smith agreed. Dr. Alamo agreed. Dr. Austin agreed. Austin stated it should be Smith moved to accept as proposed. Dr. Alamo-Leon seconded. Motion passed unanimously.

13. Public Comment. Dr. Smith invited public comment. No comments provided. Dr. Alamo made the Board aware of a scheduling conflict for the next meeting due to her being a presenter for a scholarship committee. Dr. Smith discussed three voting members is still a quorum sufficient for proper voting.

14. Action Item. Dr. Smith moved to adjourn the regular meeting. Dr. Austin seconded. Motion passed unanimously. Meeting adjourned at 12:33 p.m.

8 persons attended virtually, inclusive of Board members, Deputy Attorney General and Executive Director. No role call conducted or sign-in sheets provided.

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FY 2024-2025 Regular meeting schedule

Thursday 1/23/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Tuesday 2/18/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Tuesday 3/18/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Monday 4/21/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Monday 5/19/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Monday 6/16/2025 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 February 18, 2025.

/s/ Adam Schneider

Adam Schneider, Executive Director