

NEVADA STATE BOARD OF OPTOMETRY



MARIAH SMITH, O.D.
Board President

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

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ADAM SCHNEIDER, ESQ.
Executive Director

JEFFREY AUSTIN, O.D.
Board Member

SALLY BALECHA
Public Board Member

Meeting Materials

for January 23, 2025

Board Meeting

Materials for Item No. 5 re

- Minutes – regular Board Meeting 12-11-24

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING December 11, 2024

1. **Call to Order.** Mariah Smith, O.D. opened the live meeting at 12:19p.m.
2. **Roll Call.** Deputy Attorney General (DAG) Todd Weiss, Esq., and Board members Sally Balecha, Mariah Smith, O.D., Jeffrey Austin, O.D., Julieta Alamo-Leon, O.D. were present via Zoom, Meeting ID: 817 7104 0189, Passcode: 154355, telephone 1 669 900 6833. Executive Director Adam Schneider attended in-person at Nevada Business Center, Tahoe Room, 3300 W. Sahara Ave., 4th Floor, Ste. 440, Las Vegas, NV 89102.
3. **Public Comment.** Dr. Smith invited public comment. No comments provided.
4. **Action Item. 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.

The complaint is not about poor clinical care. Instead it regards alleged co-management by the OMD and the subject licensee for LASIK. The patient paid for lifetime revisions for free in January 2018, and the subject licensee would co-manage the patient with the OMD per the signed documentation by the patient yet not signed by the subject licensee. When the patient presented back to the OMD for that free revision in 2024, the patient was told the OMD's services were for free but that any facility and/or materials charges needed to be paid directly to the subject licensee.

From the patient's perspective, this was a bait-and-switch, of which the subject licensee was involved. But from the subject licensee's position, the only time the subject licensee ever met the patient was during a February 2024 examination, thus there was never any co-management relationship or doctor-patient relationship from 2018-2023, and the OMD's statement, the business attorney's statement, and the surgical coordinator's statements prove that lack of relationship.

The licensee denies any attempted collection of payment, and states that the surgical coordinator

is not the licensee's employee, but the materials do not show that necessarily to be true where per the text messages to the patient the surgeon's fees are being negotiated and/or brokered by the surgical coordination after discussing with the subject licensee. This in addition to the subject licensee during the pendency of the investigation cc'ing the surgical coordinator with the subject licensee's CEs.

Dr. Smith summarized the complaint of a patient being upset with unlisted surgery facility fees despite a lifetime LASIK guarantee, and commented in her experience that her co-management documents have clear delineation of whose role is what, but here there might be a blurring of the lines. An example is the licensee cc'ing the surgery scheduler about CEs, yet the licensee's response is that there is no relationship with the surgery scheduler. Dr. Smith asked rhetorically then why is the surgery scheduler being cc'ed multiple times by the licensee if there is no professional relationship. Dr. Smith remembered a case from 2018 where a licensee's LASIK advertisements were very ambiguous on whose role was what. It was strange that the patient is being told by the surgeon to ask the licensee what the surgeon's fees would be.

Dr. Austin requested for future redactions that the redacted names be re-labeled to, e.g., OMD1 or OD1 to make the review less confusing.

Director Schneider answered Dr. Austin's question that the only evidence of co-management is the form the patient signed in January 2018 at the OMD's office which lists the names of the OMD and subject licensee, and that the patient never saw the subject licensee until February 2024. Dr. Austin stated if the patient never saw the OD in the post-operative period, then no co-management relationship was established. But a follow-up question is did the licensee receive any co-management payment in 2018, which is so, establishes a financial relationship. Director Schneider stated that exact question was not asked in the inquiry letter, but the licensee's response includes only billing from February 2024. Dr. Smith added the follow-up question needs to include whether it was co-management fees to the OD, or fees to the surgery center which the OD might own a portion of the business. Dr. Austin commented that if the licensee received co-management money yet never performed any co-management services, that is probably an ethical violation. Dr. Austin asked if the OD has a relationship with the LASIK center. If so, that would be very unusual where the OD is the one making purchases for the LASIK surgery and suggests a co-mingling of funds which is not common at all. Dr. Austin requested additional information in order to make a decision.

Director Schneider presented multiple options available to the Board, which could be concurrent if the Board elects: 1) close it down with no further action; 2) ask any additional questions to the licensee before making a decision to involve the Attorney General's office or close it down based upon the additional information; 3) close it down as to this Board, but at the licensee's request, forward the complaint to the medical board to investigate the OMD; 4) put this investigation on a timeout, but at the licensee's request, forward the complaint to the medical board to investigate the OMD and await what the medical board's investigative committee finds out.

Dr. Austin stated the Board has an obligation to do a complete investigation upon the OD, but to still refer the complaint to the medical board. Dr. Austin would like additional information on the relationship between the OD and the surgery center in 2018, the relationship between the OD and the OMD in 2018, the relationship between the OD and OMD in 2024, and the relationship between the OD and surgery center in 2024. If there is a financial relationship, then perhaps the

OD bears responsibility. If there is no professional responsibility or financial responsibility, then perhaps the OD does not bear responsibility.

Dr. Smith remembered a prior complaint where an OD was referring patients to his wife for occupational therapy, and was considered an inappropriate referral due to them being married. Thus Dr. Smith would like to know if there were private-life relationships between the OD and OMD, or are colleagues in any other respect. Dr. Austin agreed.

Dr. Alamo-Leon commented about the OMD's written response that the OD did not establish any monetary benefit with the patient, and agreed additional information is needed.

Dr. Smith noted the response discussed 1099 status, but was unclear from the redactions if that was the surgical coordinator or the OMD. Director Schneider stated the text messages to the patient mentioned the OMD as an independent contractor but did not mention as to what entity or what person. Dr. Smith would like to know the employment status before the change of status to independent contractor based upon the text message implying the OMD recently became an independent contractor meaning the status may have been different in 2018.

Public Member Balecha, based upon a review of the documentation that the patient initialed, questioned whether the conditions for the lifetime guarantee were even met. Dr. Smith discussed the difference between a recommendation for yearly examinations versus required yearly examinations in order to not void the contract. Dr. Austin noted the OMD's written response that the patient violated the lifetime guarantee when the patient chose distance correction for both eyes in 2018, but then in 2024 wanted correction for monovision. From Dr. Austin's perspective, the patient would have to pay for at least one eye regardless, and the lifetime guarantee is off the table.

Director Schneider commented we do not know if the patient presented to the OMD from 2018-2023 because the custodian of those records is the OMD, whom is not a licensee of the Board. This makes the licensee's suggestion, and Dr. Austin's suggestion, of forwarding the complaint to the medical board even more appropriate.

Dr. Smith would like additional information of why did the OD, through the surgical coordinator, attempt to negotiate the fee if there was never any co-management relationship in the first place.

Dr. Alamo-Leon commented that the patient should have known based upon the co-management documentation that there is more than one doctor involved, and that it was a team effort. But how that care was delivered and how the money was dispersed is very vague.

Dr. Austin stated in his experience that it is not uncommon for a patient to sign co-management documentation but the patient decides to only treat with the OMD. But here, we do not know if the patient did so. Director Schneider re-represented that the co-management documentation lists only the OMD and the subject licensee, and re-stated Dr. Smith's question of then why is a deal being brokered on behalf of the OMD, the surgery center, and the OD, if there is no bona fide co-management relationship or any doctor-patient relationship which predated February 2024.

Dr. Smith moved for Director Schneider to ask for the additional information as discussed in the meeting, and to forward to the medical board. Dr. Alamo-Leon seconded. Motion passed

unanimously.

5. Action Item. Consideration and approval of Minutes for October 30, 2024 regular Board Meeting. Dr. Smith confirmed all present Board members had an opportunity to review the draft. Dr. Smith moved to accept as proposed. Dr. Austin seconded. Motion passed unanimously.

6. Action Item. Consideration and approval of Minutes for October 30, 2024 Workshop. 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.

7. Action Item. Consideration and approval of FY2023-2024 Audit and possible expenditure for supplemental accounting services. Director Schneider reminded the Board that the prior executive director's retirement payouts had to be revised in the months after completion of the FY2022-2023 audit. So in part, that resulted in the Auditor's report and the deficiencies discussed at pages 36-40 of the 43 page report.

Director Schneider explained his recommendation for supplemental accounting services, and the Board had approved increased bookkeeping services around this time last year, and recommended supplemental accounting services to help avoid any deficiencies for FY2024-2025 audit. This would be a continuum of that process from last year.

Director Schneider recommended supplemental accounting services of 10-15 hours at \$100-\$200/hours for end of fiscal year projects and reconciliations, so minimum \$1000 and maximum of \$3000.

Director Schneider has been in contact with the Auditor who stated other Boards utilize outside accounting services for end of fiscal year balances and budgets, such as Engineering and Marriage and Family Therapists, and with Carson Tahoe Tax Services who advised they do this kind of work for other governmental clients and their rate is \$100 an hour to \$200 an hour with most of them being in the \$200 an hour rate. Those services include advisory services for accounting standards, year end account reconciliations, and calculation and recording of year end adjusting journal entries including accrued payroll, compensated absences, prepaid expense, discipline payables, deferred revenue, and post-employment benefits.

Dr. Smith moved to authorize supplemental accounting services up to \$3,000, and should the fees exceed that amount for Director Schneider to present to the Board. Public Member Balecha seconded. Motion passed unanimously.

8. Executive Director report re meeting with Administrative Collaborative and BDR 18-301. Director Schneider stated executive directors of similar boards convened to discuss BDR 18-301. Different EDs contributed to the meeting from their own perspective:

- B&I's target implementation date of July 2026 with a six-month notice and employee shifting;
- B&I wants to retain expertise, but is unknown if that means EDs or licensing specialists;
- the possible need for a 2027 legislative session;

- Board positions are voluntary, and the meetings might be all day long given the amount of Boards consolidated into a super board;
- possible process of sub-boards, with their proposals to then go to the superboard for rubber-stamping;
- Boards of Healing Arts and Homeopathic Medicine were possibly going to be eliminated, so there was some positivity that the superboards weren't eliminating their chapter whole cloth;
- Some EDs researched Iowa's model, yet Iowa's model does not consolidate the way that this bill would;
- Board funds would be accounted for individually, but consolidated, with individual bank accounts would be eliminated. A concern was that Boards operate as if being in the private sector versus how State-controlled governmental plans;
- B&I's goal is to have uniform licensee renewal fees and times of renewal;
- Concerns included lack of customer service to research issues for the public or the membership, and that superboards will not have any expertise regarding complaints and investigations.

Dr. Smith summarized her meeting with B&I leadership, including there being two members of each Board except for Audiology, not all executive directors being retained in their current position, and consolidation of investigative personnel and processes. A concern was raised to B&I personnel about the lack of subject matter expertise when non-optometry issues are discussed. B&I's response was there would be a panel of optometrists who would not be Board members but who would assist in subject matter expertise.

9. Executive Director report re BDR 151 and possible expenditure for lobbyist services.

Director Schneider directed the Board to the meeting materials for the proposed retainer agreement and of a similar nature of what the Board used for the 2023 session. Director Schneider has been in contact with legislative support specialist, whose services would include monitoring BDR 18-301 and what the Board wants for that, in addition to Dr. Koenig's bill of BDR 151. Director Schneider recommended the expenditure of \$20,000 for such services.

Dr. Smith stated this was already part of budget, and for Director Schneider to proceed with retention of the legislative support consultant.

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

10/24/2024 - 12/4/2024	FY2025 cumulative
New licenses: 1	9
Licenses by endorsement: 0	5
Glaucoma: 1	3
OPAC: 5	15
Fictitious Name: 6	18
Location changes: 4	22
Additional locations: 4	32
LOGS: 2	33
PRR: 10	19
Refunds: 0	3
Mobile: 1	1

Substitute location: 1	4
Public complaints: 0	7
2026-2028 CE review: 1	2

11. Action Item. NRS 636.206 (Expedited license by endorsement) clarification and for possible inclusion into BDR 151. Director Schneider stated the Kentucky Board will be allowing students to take the Canadian exam in the event they fail NBEO part I the maximum amount of times. So nationally, the concern is a newer batch of Kentucky licensees will not have passed NBEO part I, which is the basic science portion of the NBEO. So with States that have license by endorsement statutes, those Kentucky licensees could obtain non-Kentucky licenses without having ever passed the basic science portion. So the concern is not addressing that issue violates the mission of protecting the public.

Director Schneider directed the Board to the meeting materials and that in NRS 636.206, passing all phases of the NBEO is not an express requirement. The proposed revision to NRS 636.206 closes that loophole. Should the Board want to add it to BDR 151, Director Schneider stated he is already in touch with LCB and adding it to BDR 151 as a supplement is allowable upon communication with Dr. Koenig.

Dr. Austin agreed with everything in Director Schneider's position, and moved for Director Schneider's proposed revisions to NRS 636.206 be incorporated into BDR 151, and that all licensees in Nevada be it as an initial application or by endorsement, pass all phases of the NBEO. Dr. Alamo agreed, and seconded. Dr. Smith talked about NBEO and its successor organizations. Director Schneider stated the proposed revisions to NRS 636.206 in the meeting materials incorporates that language. Motion passed unanimously.

12. Public Comment. Dr. Smith invited public comment. No comments provided.

13. Action Item. Dr. Smith moved to adjourn the regular meeting. Dr. Austin seconded. Motion passed unanimously. Meeting adjourned at 1:20p.m.

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

1 person attended in-person, inclusive of the Executive Director. No role call conducted or sign-in sheets provided.

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FY 2024-2025 Regular meeting schedule

Wednesday 12/11/2024 12:15p.m. (pst) Reg. Bd. Meeting- phone or Zoom

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

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on January 23, 2025.

Adam Schneider, Executive Director

Materials for Item No. 6 re

- Minutes NOI R066-19(12) 12-11-24

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF NOTICE OF INTENT TO TAKE ACTION ON REGULATION R066-19(12) December 11, 2024

1. **Action Item 1. Roll Call, Call to Order,** President Mariah Smith, O.D. opened the live meeting at 1:22p.m.¹

2. **Public Comment.** President Smith invited public comment. No comments provided.

3. **Action Item. Notice of Intent to Take Action Upon Regulation R066-19(12).** Director Schneider summarized the workshop meetings of July and August 2024, and the Board's approval at its regular meeting in September 2024 for submission to LCB. Director Schneider educated the Board of a statutorily requisite waiting period of 35 days must occur, then the Board can file with the Secretary of State, then it becomes law approximately ten days later, and is only a temporary regulation because this is an off-year for permanent regulations. As the months towards November 2025 approaches, another open meeting process will start in order to make that temporary regulation permanent, presuming the Board and membership want to keep the regulation as-is. Dr. Smith moved to accept as-is. Dr. Austin seconded. Motion passed unanimously.

4. **Action Item.** Dr. Smith moved to adjourn the meeting. Public Member Balecha seconded. Motion passed unanimously. Meeting adjourned at 1:24p.m.

8 persons attended, inclusive of Board members and Deputy Attorney General. 1 person attended in-person, inclusive of the Executive Director. No roll call conducted or sign-in sheets provided.

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on January 23, 2025.

Adam Schneider, Executive Director

¹ This occurred after the conclusion of the Board's regular meeting and Notice of Intent to Take Action on R066-19(8))(4) meeting on the same day and time, whose Zoom information and physical location are identical.

Materials for Item No. 7 re

- Minutes NOI R066-19(8)(4), 12-11-24

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF NOTICE OF INTENT TO TAKE ACTION ON REGULATION R066-19(8)(4) December 11, 2024

1. **Action Item 1. Roll Call, Call to Order,** President Mariah Smith, O.D. opened the live meeting at 1:20p.m.¹

2. **Public Comment.** President Smith invited public comment. No comments provided.

3. **Action Item. Notice of Intent to Take Action Upon Regulation R066-19(8)(4).** Director Schneider summarized the workshop meeting of October 2024. Director Schneider asked DAG Weiss whether a vote was necessary given the lack of public comments or objections. DAG Weiss advised for the Board to vote. Dr. Smith moved to accept as-is. Dr. Austin seconded. Motion passed unanimously.

8 persons attended, inclusive of Board members and Deputy Attorney General.

1 person attended in-person, inclusive of the Executive Director. No roll call conducted or sign-in sheets provided.

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on January 23, 2025.

Adam Schneider, Executive Director

¹ This occurred after the conclusion of the Board's regular meeting on the same day and time, whose Zoom information and physical location are identical to the Board's regular meeting.

Materials for Item No. 8 re

- Email from B&I
- SB 78 B&I Summary
- SB 78 pages 1 and 85
- SB 78 Overview
- Structure Alternative

From: Nikki Haag <Nikki.Haag@business.nv.gov>

Sent: Thursday, January 16, 2025 1:26 PM

Subject: SB 78 amendments

Good afternoon

Through are many conversations with the Executive Directors and Chairs, we have made some adjustments to the merged boards.

Regarding the current skeleton language of SB 78, we are working with the Legislative Counsel Bureau (LCB) on drafting the full language of the bill. As we navigate this process, there may be an opportunity to include our proposed amendments during the rewrite. If not, we will be prepared to present amendment language at the first hearing for SB 78.

Taking our discussions into consideration, we are making adjustments to the structure of the merged board. Below is the proposed amendment we plan to include in SB 78:

We will be removing "The Nevada Board of Vision, Speech and Mobility Professions" from the list of merged boards and moving forward with the creation of "The Nevada Optometry and Dispensing Opticians Board." This revised board will consist of 5 members, representing the following boards:

- The Nevada State Board of Optometry
- The Board of Dispensing Opticians

New Board Make-Up:

- 2 licensed optometrists
- 2 licensed ophthalmic dispensers (Opticians)
- 1 General Public Member

Thank you for your continued support and feedback, and we look forward to continuing to work with you as we go through this process,

Nikki

Nikki Haag

Deputy Director

Office of Nevada Boards, Commissions, and Council Standards

Department of Business and Industry

T: 775-684-2927

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State of Nevada DEPARTMENT OF BUSINESS AND INDUSTRY

Nevada Department of Business and Industry to introduce legislation REORGANIZING NEVADA'S BOARDS AND COMMISSIONS

Recognizing that Nevada must restructure its boards and commissions to better serve the public interest, Governor Joe Lombardo directed the Department of Business and Industry ("B&I") to develop a framework for modernization.

Nevada's regulatory, advisory, and occupational boards are a form of participatory state government where citizens can volunteer to serve their community and profession. Since the state's founding in 1864, boards and commissions have expanded to over 315 executive department entities with over 1,700 appointees appointed by the Governor. The last significant effort to address boards and commission reform in Nevada took place in 1976 by Governor Mike O'Callaghan who commissioned a study. No legislative action to implement the study's recommendations followed.

Nevada's government is comprised of an executive, legislative, and judicial branch. However, the size and scope of the state's boards and commissions constitute a fourth branch of appointed representatives that have minimal oversight and wide-ranging authorities that impact the state's economy and the livelihood of thousands of residents.

The goals of the proposed reorganization include:

- 1) Increase board and commission accountability and transparency
- 2) Enhance operations and reduce redundancy
- 3) Reduce administrative cost burdens to licensees
- 4) Provide excellent service delivery
- 5) Enhance Nevada's economic competitiveness

Understanding that Nevada's occupational licensing and advisory boards perform an essential function, B&I staff have sought to preserve the operational integrity of the boards while reorganizing their administrative functions. B&I is a fee-based department comprised of eleven regulatory agencies with merely 1.3 percent of its \$700 million budget derived from the general fund. It is therefore uniquely positioned to understand the similar frameworks of licensing and advisory boards. The statutory authorities granted to the department along with its cost allocated budget philosophy provide a road map for administrative board restructuring.

Department staff propose that the administrative functions of Nevada's occupational licensing boards be aggregated under the authorities vested in the Nevada Office of Boards, Commissions and Councils Standards (BCCS). Such an approach would eliminate redundancy, reduce costs to licensees, ensure consistency across all occupational licensing and advisory boards, mitigate anti-trust exposure through adequate supervision, and allow board members to focus on essential functions instead of duplicative administrative activities.

The Department will streamline all processes pertaining to board audits, compliance with Nevada Revised Statutes, Nevada Administrative Code, Nevada's open meeting laws and will develop one fully integrated website. It is estimated that the operation of Nevada's boards and commissions cost \$39 million annually. Through reorganization and streamlining operations, operating costs could be reduced by approximately 50 percent.

Through research of the historical record, surveys conducted with occupational licensing boards, department boards and commissions, and consultations with other states and national organizations, the department will be introducing legislation during the 2025 Legislative session addressing the current structure, organization, and composition of boards and commissions in the State of Nevada.

RECOMMENDATIONS

The legislation will address the following areas:

- Regular reviews and sunset clauses for boards and commissions
- Term limits, appointment provisions, and strengthening the legislative process
- Eliminate the existing meeting requirements stipulated in each board's statute, and permit boards and commissions to convene only when necessary
- Centralize the operations of boards and commissions to enable the implementation of clear, consistent and effective standards that enhance the health and safety of Nevadans while also reducing barriers to workforce
- Consolidate, merge, and eliminate entities to allow the boards and commissions to better serve the citizens of Nevada

SENATE BILL NO. 78—COMMITTEE ON
REVENUE AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE DEPARTMENT OF
BUSINESS AND INDUSTRY)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Revenue and
Economic Development

SUMMARY—Revises provisions relating to boards, commissions,
councils and similar bodies. (BDR 18-301)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to governmental administration; revising in skeleton form the powers and duties of the Office of Nevada Boards, Commissions and Councils Standards of the Department of Business and Industry; making various changes in skeleton form to the composition and operation of various boards, commissions, councils and similar bodies; providing in skeleton form for the consolidation and termination of various boards, commissions, councils and similar bodies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law creates the Office of Nevada Boards, Commissions and Councils
- 2 Standards of the Department of Business and Industry and sets forth the powers and
- 3 duties of the Office. (NRS 232.8413, 232.8415) This bill revises, in skeleton form,
- 4 the powers and duties of the Office.
- 5 Existing law provides, with certain exceptions, that all professional and
- 6 occupational licensing boards created by the Legislature are under the purview of
- 7 the Office. (NRS 232.8415) **Section 24** of this bill adds various other boards,
- 8 commissions, councils and similar bodies within the Executive Department of the
- 9 State Government to the purview of the Office. **Section 11** of this bill requires the
- 10 Office to provide administrative services to each board, commission, council and
- 11 similar body under its purview, including, without limitation, legal services,
- 12 accounting services, information technology services, services pertaining to



* S B 7 8 *

1 7. The members of the Advisory ~~Board~~ *Subcommittee* are not
2 entitled to receive a salary. While engaged in the business of the
3 Advisory ~~Board~~ *Subcommittee*, each member of the Advisory
4 ~~Board~~ *Subcommittee* is entitled to receive a per diem allowance
5 and travel expenses at a rate fixed by the ~~State~~ Board. ~~of Health.~~
6 The rate must not exceed the rate provided for officers and
7 employees of this State generally.

8 **Sec. 91.** Chapter 635 of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 1. *The Nevada Board of Vision, Speech and Mobility*
11 *Professions, consisting of 11 members appointed by the Governor,*
12 *is hereby created.*

13 2. *The Governor shall appoint to the Board:*

14 (a) *Two members who are licensed as speech-language*
15 *pathologists pursuant to chapter 637B of NRS;*

16 (b) *Two members who are licensed as podiatric physicians*
17 *pursuant to this chapter.*

18 (c) *One member who is licensed as an audiologist pursuant to*
19 *chapter 637B of NRS.*

20 (d) *Two members who are licensed to practice optometry*
21 *pursuant to chapter 636 of NRS.*

22 (e) *Two members who are licensed as dispensing opticians*
23 *pursuant to chapter 637 of NRS.*

24 (f) *One member who is licensed as a hearing aid specialist*
25 *pursuant to chapter 637B of NRS.*

26 (g) *One member who represents the interests of the general*
27 *public and who:*

28 (1) *Does not hold a license issued by the Board;*

29 (2) *Is not the spouse or the parent or child, by blood,*
30 *marriage or adoption, a person who holds a license issued by the*
31 *Board; and*

32 (3) *Does not have a pecuniary interest in any matter*
33 *pertaining to the professions and occupations regulated by the*
34 *Board, except as a patient or potential patient.*

35 **Sec. 92.** NRS 639.050 is hereby amended to read as follows:

36 639.050 1. The Board shall hold a meeting at least once in
37 every 6 months.

38 2. Four members of the Board constitute a quorum.

39 3. Meetings of the Board which are held to prepare, grade or
40 administer examinations are closed to the public.

41 4. Each member of the Board is entitled to receive:

42 (a) A salary of not more than \$150 per day, as fixed by the
43 ~~Board~~ *Deputy Director of the Office of Nevada Boards,*
44 *Commissions and Councils Standards of the Department of*



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SB 78 Overview

1. Centralized Administration

-The Office of Nevada Boards, Commissions, and Councils Standards (Office) would oversee administrative functions such as personnel, legal, accounting, and IT services for all boards under its purview (Section 11).

-Boards would be prohibited from directly employing external service providers for these functions or entering into contracts without the Office's approval.

-Fees for services provided by the Office would be billed or collected from the respective boards.

2. Standardized Governance

-Board members would serve standardized 4-year terms, limited to two terms (Section 22).

-Compensation and travel reimbursement policies for board members would also be standardized.

3. Legislative Oversight

-Boards would need to route legislative drafting requests through the Deputy Director of the Office (Section 13).

-The Office would conduct periodic reviews of board effectiveness, performance, and relevance, which could influence the board's continuation or modification (Sections 7- 9). Currently role/authority of the Legislative Commission, Sunset Subcommittee

4. Appeals Process

-Contested cases, previously handled internally by boards, would now be adjudicated by hearing officers employed by the Office (Section 79).

5. Website Management

-Board information would be hosted on a centralized website maintained by the Office, eliminating the board's ability to manage its own web presence (Section 15).

6. New Appointment Authority

-The Director of the Department of Business and Industry would appoint executive directors for all boards under the Office's purview, replacing the current board-led appointment process (Section 88).

Key Questions

1. Loss of Autonomy

-Independent control over regulatory board operations would be removed or significantly diminish under centralized decision-making and administration.

2. Operational Adjustments

-The transition to centralized administrative services, standardized governance, and IT support would require substantial operational realignment.

3. Policy Influence

-A centralized legislative process could limit the ability to directly propose industry-specific regulations or legislative changes.

-Legislative process could be influenced by political agendas of the then current administration.

-Legislative oversight and authority will be diminished.

Clarifications

1. Workforce Implications:

-As this bill impacts all current state boards, what plans are in place to address the potential displacement of 500-600 privately employed board staff statewide? (B & I indicated 250 positions are employed as board staff which will be reduced to approximately 80 positions.)

-With Nevada already facing government staffing shortages, how will the Office fill new positions needed for reorganization? (State compensation remains below private sector and other public sector employers.)

-What measures will be implemented to retain qualified staff during the transition?

-How will current Board positions be integrated into B & I in terms of comparable positions, compensation, benefits and longevity?

2. Financial Management:

-Will Boards retain bank accounts for operational expenses, or will all funds be centralized? Would current funds from the boards proposed for merger be combined and tracked by the Office?

-How will the Office ensure funds from all the boards are tracked separately to prevent co-mingling?

-On what basis will costs of the Office administrative services be charged?

-Costs of transition will be very high; will these costs be charged to the boards' funds retroactively?

-What measures will be taken if board funding is insufficient to cover allocated costs of the Office?

-Will independent outside audits of board funds be conducted?

3. Contracts and Services:

-What happens to existing contracts, services, and leases? Will these remain valid or require renegotiation?

-Will B & I require moves to centralized offices and on-site staffing?

4. Transitional Personnel, Licensing and Renewal Operations:

-During reorganization, who will oversee licensing and renewals? (SB78 does not address transition)

-How will current online application and renewal systems be integrated with the B & I centralized Office systems?

ALTERNATIVE OVERSIGHT STRUCTURE

Office of Boards, Commissions and Council Standards

Organizational Structure

Administrative Services

Retains Independent Boards' Current Organizational Structure and Authority

Provides State Administrative Oversight

The Office of Boards, Commission and Council Standards (Office) establishes new positions to serve as **State Liaison Officers** (SLO).

The assigned SLO is the primary contact person for all administrative services provided by the Office and have experience in Board administration and operations. The SLO oversees Administrative Services for their assigned Boards; collaborates with Boards for utilization of services with other State agencies, such as leasing services, and purchasing, and oversees compliance with administrative requirements, State Administrative Manual (SAM) as it pertains to Boards, and various reporting requirements by the State and/or the Legislature.

A Board may elect to transfer full administrative authority to the State with the Office assuming full administration of the Board.

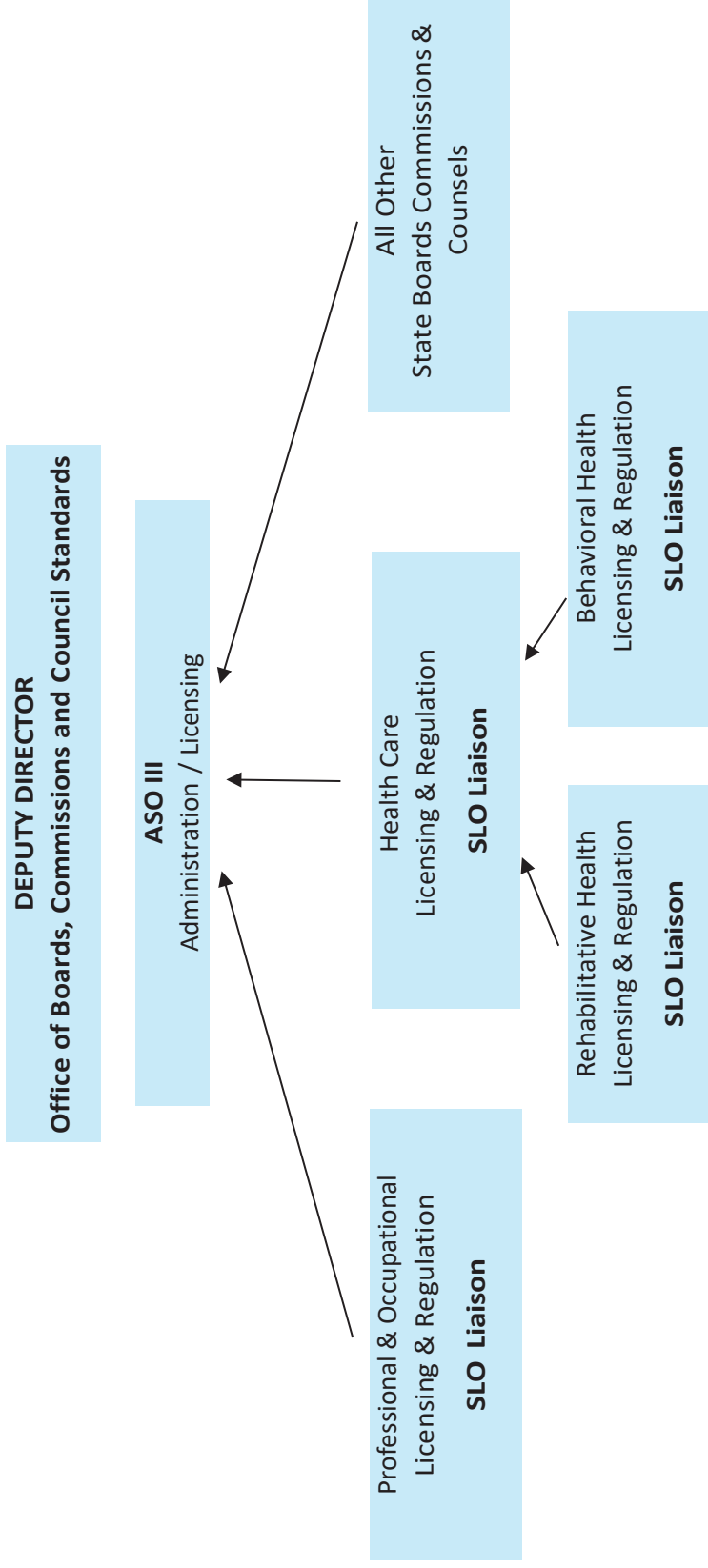
OPTIONAL / AVAILABLE ADMINISTRATIVE SERVICES

- Administration – Overall organization of board operations;
 - Information technology / website management
- Fiscal – Budgeting, accounting, financial reporting and internal controls;
 - Procurement / contract management
 - Audit services
- Legislative and regulatory – Interface with the Legislature and LCB;
 - Bill requests, tracking, reporting
 - Regulation development and review
- Investigative – Provide assistance to Boards that lack resources;
 - Complaints, follow-up and tracking
- Legal – Review of cases, advise on due process and other areas; and
 - Formal hearings, notices, legal representation
 - Hearing Officers
- Human Resources – Personnel
 - Personnel policies, compensation, performance reviews, training
 - Payroll and benefit administration

Provides State Administrative Oversight

**Office of Boards Commissions and Councils
Standards**

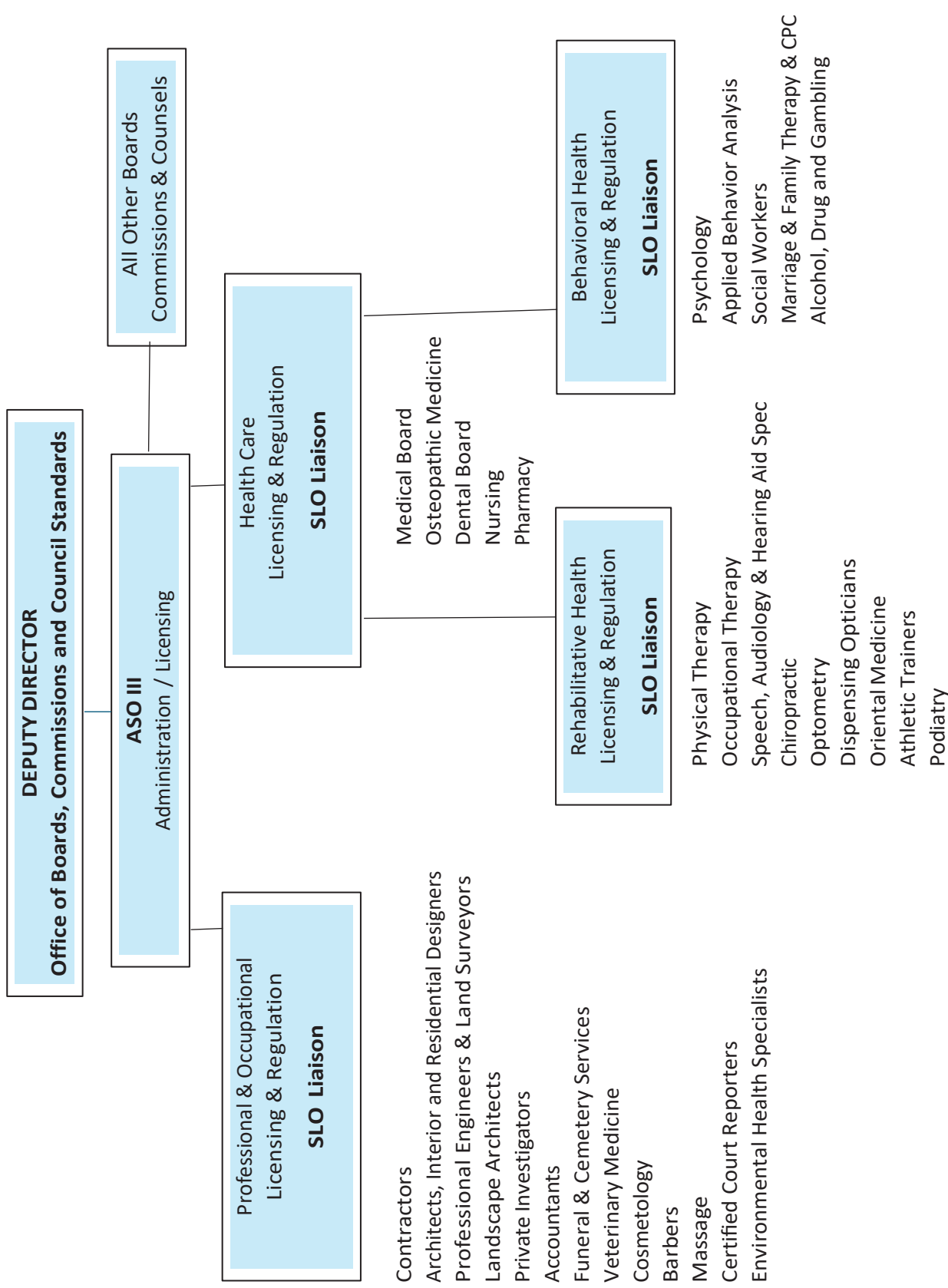
Staffing Structure



Retains Independent Licensing Boards / Provides State Administrative Oversight

Title 54 Professional and Occupational

Boards Reporting Structure



State of Nevada
Governor's Office of Finance
Division of Internal Audits
Audit Report
DIA Report No. 19-03
June 25, 2019

Board Semi-Autonomy with B&I May Be Best First Step for Licensing and Regulating Nevada's Professions

The best first step for establishing B&I oversight of Nevada's Boards may be enjoining a semiautonomous relationship by which Boards retain authority for the professions or occupations they regulate under their individual practice acts while other aspects of Board operations fall under the umbrella oversight of B&I. Under this framework, Boards would retain their independent authority to license and establish standards for their professions and would benefit from B&I's review of regulatory actions, operational practices, and administrative procedures.

Nevada's Boards Prefer Autonomy

The Council on Licensure, Enforcement and Regulation (CLEAR), described five models of organization for licensing boards in the 50 states. The models described range from fully autonomous where each board is responsible for its own operations to fully-centralized where a state agency is responsible for operations and a board, if it exists, is advisory.

CLEAR considered Nevada Boards to be fully autonomous because:

- They hire their own staff;
- Make decisions about office location, purchasing, and procedures;
- Receive and investigate complaints and discipline licensees;
- Prepare, conduct, and grade examinations;
- Set qualifications for licensing and standards for practice;
- Collect fees and maintain financial records;
- Process applications for licensing and renewal; and
- Answer inquiries from licensees and the public.

Boards believe strongly that the autonomous model provides the greatest flexibility and responsiveness to public needs and changes in professional practices. However, Boards also generally recognize that because they operate independently of both each other and the state, inconsistent practices among the Boards may exist and there is a lack of oversight, support, guidance, and consistency for their operations when compared to other state agencies.

Semi-Autonomy Retains Responsiveness to the Public and Enhances Accountability for the Profession

CLEAR describes alternatives between full autonomy and full centralization that may provide both the flexibility and responsiveness to the public and profession while providing greater oversight and consistency in how the Boards operate. This relationship may be described as semi-autonomous in that Boards regulate their profession and set qualifications for licensing and standards for practice; prepare, conduct, and grade examinations; discipline licensees; hire their own staff; and answer inquiries from licensees and the public. However, a central agency would have varying degrees of control over other aspects of operations, such as facilities, licensing and regulatory processes, budgets, financial accounting and reporting, complaint investigations, personnel policies, and records.

In its executive oversight role, B&I could act as the central agency contemplated in the semi-autonomous relationship. B&I could provide varying degrees of control over the other aspects of operations as necessary to maximize the effectiveness, efficiency, and consistency of the Boards.

Oversight Provided by a Core of Personnel Experienced in Board Operations

The organizational structure of B&I's executive oversight role will depend on many factors. Some Boards have suggested that a "liaison unit" be established and staffed by personnel experienced in core functions of board operations. Suggested core functions could include:

- Administration – Overall organization of board operations;
- Fiscal – Budgeting, accounting, financial reporting and internal controls;
- Legislative and regulatory – Interface with the Legislature and LCB;
- Investigative – Provide assistance to Boards that lack resources;
- Legal – Review of cases, advise on due process and other areas; and
- Human Resources – Personnel policies, compensation, performance reviews, and training.

In its executive oversight role, B&I could hire, direct, and manage personnel experienced in the core functions of board operations.

B&I Can Provide Legislative Assistance

Some Boards represented that one of the most confusing and intimidating aspects of Board operations is negotiating legislative processes for adopting regulations or introducing new bills. For example, even with OAG's rule making manual and training classes, the specifics of how to write and submit regulations is difficult to understand for new members and executive staff. Also, there is no central point of contact for introducing new legislation, leaving Boards to find a legislator on their own who is willing to introduce their bills. Additionally, some Boards may devote significant portions of their operating budgets toward lobbyist services. Some Boards represented they need lobbyists to educate them on the legislative process and to keep abreast of pending legislation.

As one of the largest executive departments, overseeing multiple industries, occupations and professions, B&I is acutely involved in the legislative process, both in terms of adopting regulations and introducing new legislation. In its executive oversight role, B&I could be the central point of contact for Boards to provide legislative assistance. As a result, Board expenditures on lobbyist activities may be reduced.

Consolidation of Board Operations May Be Desirable

Several Boards represented they do not need or lack the funding to operate fulltime. Consequently, Boards may employ only a single person on a part-time basis or may require that Board members volunteer time to function in a staff capacity to help ensure they meet the needs of the public and profession.

As noted in our first report, one group of three boards has consolidated their facilities, operations, and staffing to provide full-time operations for all three boards and reduce overall operating costs while maintaining the independence of each of the three boards to regulate their professions. The boards share operating costs through a co-location and cost-sharing agreement. This approach may serve as a model for other boards with limited requirements or resources. An executive oversight agency would be in a position to have sufficient data, information, and awareness to recommend and guide such a consolidation.

In its oversight role, B&I could evaluate the requirements and limitations of the Boards in order to determine which Boards might benefit from consolidation of their facilities, operations, and staffing. B&I could provide an on-going institutional and structured service to smaller boards.

Phased Approach May Be Effective

Board size and complexity vary greatly. As noted in our first report for fiscal year 2017, the number of licensees regulated varies from about 60 to 48,600; annual expenditures vary from about \$28,000 to \$7.1 million; and staffing levels vary from about 1 to 60 positions.

Given the great degree of variance in the Boards and their regulated professions, a one-size-fits-all approach to oversight may not be desirable. Instead, a phased approach may be more effective.

While B&I could function in the same oversight role for all Boards, the way it accomplishes that oversight may require a phased approach. After an initial period of evaluation, B&I could determine the degree and type of oversight that would best benefit each Board. For example, for Boards that currently operate with a robust set of standards and function effectively and efficiently, a review by B&I of those standards for consistency of practice may be all that is required. In contrast, Boards with a history of issues such as inadequate funding, staff turnover, unresolved complaints, or delays in license processing may require a more hands on approach, up to and including direct management and/or consolidation of operations. This approach would seem to meet the intent of the Legislature to establish a set of standards for the Boards where needed but still allow Boards that already meet those standards to continue to operate as normal.

Materials for Item No. 10 re

- NRS 636.2893

Blue font = proposed additional language

NRS 636.2893 Requirements for issuance of certificate: Regulations. The Board shall adopt regulations that prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to [NRS 636.2895](#). The requirements must include, without limitation:

1. A license to practice optometry in this State;
2. The successful completion of the “Treatment and Management of Ocular Disease Examination” administered by the National Board of Examiners in Optometry or an equivalent examination approved by the Board;
3. Proof that each optometrist who applies for a certificate has treated at least 15 persons who were:
 - (a) Diagnosed with glaucoma by an ophthalmologist licensed in this State, **in the District of Columbia or any state or territory of the United States**; and
 - (b) Treated by the optometrist, in consultation with that ophthalmologist, for at least 12 consecutive months; and
4. A certificate to administer and prescribe pharmaceutical agents issued pursuant to [NRS 636.288](#).

Materials for Item No. 12 re

- 9-20-23 Minutes Action Item 7 re DEA CE's
- DEA CE

Action Item 7. NRS/NAC clarification re Drug Enforcement Administration CE requirement. Executive Director Schneider explains the new federal, one time, 8 hour continuing education (CE) requirement for DEA license holders. Membership has reached out asking if the CE requirement can carry over into the NSBO CE requirement, beyond the 2 hours required for licensure. Jeffrey Austin, OD motions because of the short notice to the membership from the DEA to allow the extra hours to all NSBO applicants' OPAC CE requirements regardless of holding a DEA license or not for the cycle ending in February 2024. Stephanie Lee, OD clarifies that the federal DEA-approved CE courses are not necessarily COPE approved and the NSBO will be allowing courses on the DEA-approved course list to count towards the NSBO general CE/OPAC renewal requirement. Stephanie Lee, OD motions that the Board accepts 8 hours of CE on the DEA approved CE course list for licensure and OPAC. Mariah Smith, OD amends the motion to any amount of hours, not limited to 8. Public member Drew Johnson seconds the motion. All Board members in favor, none opposed. Motion carries.

www.dea.gov

DEA Registered-Practitioners

Dear Registrants:

On December 29, 2022, the Consolidated Appropriations Act of 2023 enacted a new **one-time**, eight-hour training requirement for all Drug Enforcement Administration (DEA)-registered practitioners on the treatment and management of patients with opioid or other substance use disorders. Below is information on this new requirement.

Who is responsible for satisfying this new training requirement?

- All DEA-registered practitioners, with the exception of practitioners that are solely veterinarians.

How will practitioners be asked to report satisfying this new training requirement?

•Beginning on June 27, 2023, practitioners will be required to check a box on their online DEA registration form—regardless of whether a registrant is completing their initial registration application or renewing their registration—affirming that they have completed the new training requirement.

What is the deadline for satisfying this new training requirement?

•The deadline for satisfying this new training requirement is the date of a practitioner's next scheduled DEA registration submission—regardless of whether it is an initial registration or a renewal registration—on or after June 27, 2023. •This one-time training requirement affirmation will not be a part of future registration renewals.

How can practitioners satisfy this new training requirement?

There are multiple ways that practitioners can satisfy this new training requirement.

- First, the following groups of practitioners are deemed to have satisfied this training:

1.Group 1: All practitioners that are board certified in addiction medicine or addiction psychiatry from the American Board of Medical Specialties, the American Board of Addiction Medicine, or the American Osteopathic Association.

2.Group 2: All practitioners that graduated in good standing from a medical(allopathic or osteopathic), dental, physician assistant, or advanced practice nursing school in the United States within five years of June 27, 2023, and successfully completed a comprehensive curriculum that included at least eight hours of training on:

Treating and managing patients with opioid or other substance use disorders, including the appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of a substance use disorder; or

Safe pharmacological management of dental pain and screening, brief intervention, and referral for appropriate treatment of patients with or at risk of developing opioid and other substance use disorders.

- Second, practitioners can satisfy this training by engaging in a total of eight hours of training on treatment and management of patients with opioid or other substance use disorders from the groups listed below. A few key points related to this training:

1. The training does not have to occur in one session. It can be cumulative across multiple sessions that equal eight hours of training.

2. Past trainings on the treatment and management of patients with opioid or other substance use disorders can count towards a practitioner meeting this requirement. In other words, if you received a relevant training from one of the groups listed below—prior to the enactment of this new training obligation on December 29, 2022—that training counts towards the eight-hour requirement.

3. Past DATA-Waived trainings count towards a DEA registrant's 8-hour training requirement.

4. Trainings can occur in a variety of formats, including classroom settings, seminars at professional society meetings, or virtual offerings.

What accredited groups may provide trainings that meet this new requirement?

- The American Society of Addiction Medicine (ASAM)
- The American Academy of Addiction Psychiatry (AAAP)
- American Medical Association (AMA)
- The American Osteopathic Association (AOA), or any organizations accredited by the AOA to provide continuing medical education
- The American Dental Association (ADA)
- The American Association of Oral and Maxillofacial Surgeons (AAOMS)
- The American Psychiatric Association (APA)
- The American Association of Nurse Practitioners (AANP)
- The American Academy of Physician Associates (AAPA)
- The American Nurses Credentialing Center (ANCC)
- Any other organization accredited by the Accreditation Council for Continuing Medical Education (ACCME) or the Commission for Continuing Education Provider Recognition (CCEPR), whether directly or through an organization accredited by a State medical society that is recognized by the ACCME or CCEPR
- Any other organization approved or accredited by the Assistant Secretary for Mental Health and Substance Use, the ACCME, or the CCEPR

We hope this information is helpful. For information regarding the DEA Diversion Control Division, please visit www.DEAdiversion.usdoj.gov. If you have any additional questions on this issue, please contact the Diversion Control Division Policy Section at (571) 362-3260.

Sincerely,

Thomas W. Prevoznik
Acting Assistant Administrator
Diversion Control Division

From:

Sent: Sunday, August 6, 2023 2:48:32 PM (UTC-08:00) Pacific Time (US & Canada)

To:

Subject: [E] - DEA 8 hour requirement course

The course below was recommended to me for satisfying the new DEA 8 hour course requirement. Would our board accept this for continuing ed hours and specifically our separate opioid requirement?

<https://knowledgeplus.nejm.org/cme-moc/pain-management-and-opioids-cme/>

I've heard good things about this course and it's free!

Thank you!

Jim

JAMES A. Beckwith, O.D.
Co-Administrator Southern Nevada
Vision Source

8937 W. Sahara Ave. Suite A
Las Vegas, NV 89117
office 702-254-3558
cell 702-682-7427

NRS 636.2881 Training required for certain optometrists relating to persons with substance use and other addictive disorders and prescribing of opioids; regulations. The Board shall, by regulation, require each optometrist who is certified to administer and prescribe pharmaceutical agents pursuant to [NRS 636.288](#) and who is registered to dispense controlled substances pursuant to [NRS 453.231](#) to complete at least 2 hours of training relating specifically to persons with substance use and other addictive disorders and the prescribing of opioids during each period of licensure. Such training may include, without limitation, training in the screening, brief intervention and referral to treatment approach to substance use disorder. **Any licensee may use training required by the regulations adopted pursuant to this section to satisfy 2 hours of any continuing education requirement established by the Board.**