

STATE OF NEVADA

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Executive Director

DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF NEVADA BOARDS, COMMISSIONS AND COUNCILS STANDARDS
NEVADA STATE BOARD OF OPTOMETRY

MINUTES OF
PUBLIC MEETING
May 19, 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 863 1867 1604, Passcode 012357, telephone 1 669 900 6833. Deputy Attorney General (DAG) Joseph Ostunio, Esq., Board members Sally Balecha, Mariah Smith, O.D., Jeffrey Austin, O.D., and executive director Adam Schneider, Esq. were present via Zoom. Quorum was established.
3. **Public Comment.** Dr. Smith invited public comment. No public comment received.
4. **Action Item. Consideration and approval of March 18, 2025 Board Meeting Minutes.** Dr. Smith confirmed all present Board members had an opportunity to review the draft. Dr. Austin stated they looked good, and Public Member Balecha seconded. Motion passed unanimously.
5. **Action Item. Complaint 25-09.** Director Schneider stated this was 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. Director Schneider provided the following summary:

Husband and wife get eye exams. Both are presbyopic and relatively emmetropic. Husband chooses single vision reading glasses. The wife picks progressive lenses. Husband then questions the higher cost and the need for progressives since his wife sees well at a distance. Staff explains she has used progressive for years and that progressives offer convenience and her slight distance prescription improves her vision. Husband suspects the prescription is wrong and insists on speaking with the licensee but the licensee was unavailable with another patient. Husband refuses a follow-up appointment and they don't purchase glasses. The office manager creates a note. Licensee refunds the exams.

Question for the Board is if the conduct arises to the level of unprofessional conduct warranting a formal complaint with the Attorney General's office. If not, then talking points were requested to tell the complainant and/or the licensee in the disposition letters.

Dr. Smith noted the patient was upset about the difference in costs, which is not typically a matter of Board jurisdiction, but could be that of another governmental entity. She noted the optometrist is separate from the optical practice, and licensee's response is well thought out, professional, and addresses the concerns. Contrary to the patient's allegations, optometrists can perform digital imaging.

Dr. Austin agrees with Dr. Smith, that the optometrist provided appropriate care, and every patient has a choice for what kinds of corrective lenses they want or what works best for them.

Public Member Balecha commented that because the optometrist was in the same area as the patient, that the staff members should have asked for the optometrist to come see the patient and address the patient's concerns.

Dr. Smith noted the licensee addressed that issue in his response.

Dr. Smith moved to dismiss with no further action. Dr. Austin seconded. Motion passed unanimously.

6. Action Item. Complaint 25-10. Director Schneider stated this was 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. Director Schneider provided the following summary:

Patient upset about wait time and alleged rudeness of Licensee. Patient only underwent pre-testing FDT. Licensee never examined the patient, nor billed the patient. Oddity is Licensee did not supply any formal response beyond short informal emails or ever expressly disagreed with the patient's allegations.

Question for the Board is if the conduct arises to the level of unprofessional conduct warranting a formal complaint with the Attorney General's office. If not, then talking points were requested to tell the complainant and/or the licensee in the disposition letters.

Dr. Smith felt the complainant was advocating for the licensee's staff. It is true that most licensees provide a formal response, but the licensee only writing short emails to address the allegations in this instance is not unprofessional conduct or requires additional information from the licensee.

Dr. Austin stated the licensee could have managed the situation better and would have been better to reschedule. The patient was offered to re-schedule, but declined.

Public Member Balecha agreed.

Dr. Smith moved to dismiss with no further action. Dr. Austin seconded. Motion passed unanimously.

7. Action Item. Complaint 25-12. Director Schneider stated this was 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. Director Schneider provided the following summary:

Medically complex pediatric patient inclusive of referral to Meadows and brain MRI. Unbeknownst to Licensee, a staff member provided the patient's mother with the autorefractor prescription, and not the final prescription leading to patient confusion and subsequent treaters' confusion. Licensee apparently does not check office emails and understaffed around the holidays resulting in lack of response to patient's mother.

Licensee self-disciplined the staff member for giving out the autorefraction prescription, which makes relevant NAC 636.210(4) that an OD may be subject to disciplinary action for the unprofessional conduct of the OD's employee, and NAC 636.210(5) that the OD has the ultimate responsibility for the conduct of the OD's employee when acting within the scope of employment.

Question for the Board is if the conduct arises to the level of unprofessional conduct warranting a formal complaint with the Attorney General's office. If not, then talking points were requested to tell the complainant and/or the licensee in the disposition letters.

Dr. Smith noted the patient did not follow the plan, nor the follow-up appointment, and it is difficult to discipline the doctor when the patient is at fault themselves; an example being a patient has amblyopia and the doctor wanting a three-month follow-up and yet the patient does not come back for a year.

Dr. Austin noted even the best of staff members make mistakes, but here there is no harm no foul. The patient already had the correct prescription and never used it. The patient was referred to a specialist two different times, and Meadows Eye did not find anything wrong either.

Public Member Balecha agreed, and that the patient has fault here as well.

Dr. Smith reiterated that the email not being monitored is a concern, but does not arise to the level of unprofessional conduct here when the patient could have called as well when no response was received.

Dr. Smith moved to dismiss with no further action. Dr. Austin seconded. Motion passed unanimously.

8. Action Item. Complaint 25-13. Director Schneider stated this was 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. Director Schneider provided the following summary:

Complainant is both a patient and employee/co-worker of Licensee. Licensee was alleged rude to the employee for a patient being added to the schedule beyond the set of blocked hours, resulting in patient/co-worker wanting healthcare elsewhere. According to the complainant, this resulted in the complainant not wanting to seek care from the licensee, whereas the licensee says she was already getting care from other healthcare providers anyway.

Question for the Board is if the conduct arises to the level of unprofessional conduct warranting a formal complaint with the Attorney General's office. If not, then talking points were requested to tell the complainant and/or the licensee in the disposition letters.

Dr. Smith stated that the licensee could have handled the situation better, but does not arise to the level of unprofessional conduct.

Dr. Austin agreed. This amounts to a doctor-said-patient-said situation, and rudeness is not unprofessional conduct requiring a formal complaint.

Public Member Balecha stated the Board should dismiss.

Dr. Smith moved to dismiss with no further action. Public Member seconded. Motion passed unanimously.

9. Action Item. Complaint 25-14. Director Schneider stated this was 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. Director Schneider provided the following summary:

Licensee's fictitious name application provided false information. Licensee's corporate ownership structure of the spouse as an owner in violation of OD laws. Licensee admits fault. Licensee states did not know and/or forget about the law, the bank made his spouse be an owner in order to receive the loan, the new business had not started seeing patient yet and thus no profits to the wife. Licensee changed the ownership with the Nevada Secretary of State immediately.

Question for the Board is if the conduct arises to the level of unprofessional conduct warranting a formal complaint with the Attorney General's office. If not, then talking points were requested to tell the complainant and/or the licensee in the disposition letters.

Director Schneider noted that the situation of incorrect information attested to and incorrect corporate formation was not discussed previously, but reminded that the Board that in March 2022 and May 2022 upon Public Member Johnson's motion, the Board voted unanimously that the failure to timely register a fictitious business name would result in a \$200 penalty plus the regular filing fee, and to impose the penalty if not remedied within 30 days.

Dr. Smith stated it is well known that ODs know not to establish a business with non-ODs and spouses. This is not an act of unprofessional conduct, but that an administrative fine is appropriate.

Colloquy as to NRS 636.143 which allows the Board to assess late fees up to \$1000, but is not specific to any type of transaction. Colloquy as to past instances and discretion of Executive Director to assess a fine.

Dr. Smith moved for \$200 administrative fine. Dr. Austin seconded. Motion passed unanimously.

10. Executive Director report re SB 78. Director Schneider stated that all boards proposed to be consolidated have opposed SB 78 on the record. There is an alternative in the form of SB 425. It is voluntary and would not compromise board independence. At an unknown cost based upon the level of participation in the services, a board can obtain shared services for I.T., website, accounting, budget and audits, contract management, etc.

This item will be placed on the next agenda for possible vote for participation or declination once the bill gets details into it.

11. Executive Director report re BDR 151/AB 183. Director Schneider reminded the Board that AB 183 is the NRS 636-specific bill sponsored by Dr. Koenig, and that on May 9, 2025, Director Schneider, Dr. Smith, and Dr. Koenig testified in support of AB 183. The bill had passed the Assembly portion of the legislature 42-0, and when presented to the Senate committee, the only person who had questions was Senator Daly which regarded:

section 8 regarding making sure all Nevada licensees pass the NBEO and not the Canada national test as an alternative;

section 9 regarding elimination of the requirement to shadow with an OMD before being allowed to prescribe pharmaceutical agents;

section 9.5 regarding narcotic opioid analgesics, which was already something that ODs could do so long as for the eye or adnexa and within Schedule III-V and a maximum of morphine equivalents. Dr. Smith did a good job explaining that even Tylenol has morphine equivalents.

sections 12-13 regarding updating the definition of optometry to include optometric telemedicine, and what optometric telemedicine allows and does not allow.

section 16 regarding administrative fines, but the question dealt with language that was already on the books about the process to follow in the event the licensee wants to appeal the fine under NRS 622A which is the Administrative Procedure Act.

As of today, AB 183 is on pace to pass, potentially unanimously. Director Schneider stated he will continue to place this item on the agendas until officially passed.

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

3/12/2025 – 5/13/2025	FY2025 cumulative
New licenses: 2	12
Licenses by endorsement: 0	7
Glaucoma: 0	6
OPAC: 2	18
Fictitious Name: 1	29
Location changes: 7	61
Additional locations: 6	43
LOGS: 5	49
PRR: 9	38
Refunds: 0	7
Mobile: 0	1
Substitute location: 0	7
Public complaints: 5	16
2026-2028 CE review: 0	6

13. Executive Director report re website transactions, possible I.T. increase in FY2025-2026 budget. Director Schneider stated the website has forms with credit card portals and recently the portals started to fail. The Board's website designer and I.T. company was contacted, and we were informed that the platform has always been antiquated, and needs to be upgraded. Therefore this process is underway. The Board's accountant office was also contacted to ensure any I.T. upgrades do not hamper with the accountant's job duties. Director Schneider advised the new platforms may cost more money to allow the new platform to connect with the Board's Quick Books, and will be reflected in the Board's proposed Fiscal Year 2025-2026 budget in the June meeting.

14. **Board member proposed items for future Board meetings.** Dr. Smith asked the Board if anyone would like to agendaize any topic for the next meeting. No topics provided other than Dr. Smith stating to continue to monitor the above discussed bills, which Dr. Austin agreed.

15. **Public Comment.** Dr. Smith invited public comment. No public comment received.

16. **Action Item.** Dr. Smith moved to adjourn the regular meeting. Dr. Austin seconded. Motion passed unanimously. Meeting adjourned at 12:50p.m.

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

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FY 2024-2025 Regular meeting schedule

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

FY 2025-2026 Regular meeting schedule

Thursday 7/31/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

Thursday 9/25/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

Thursday 10/30/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

Wednesday 12/10/2025 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 June 16, 2025.

/s/ Adam Schneider
Adam Schneider, Executive Director