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The Nevada Optometric Association wishes to provide feedback to the Nevada State Board of Optometry in response to Governor Lombardo's Executive Order 2026-003 issued to identify opportunities to streamline, clarify, amend, repeal, or otherwise improve Nevada's regulatory environment.

Regarding R066-19 Section 12:

While the intent of Section 12 is to regulate the relationships between licensees and non licensees for the purpose of protecting the public, the NOA perceives vulnerability in the vagueness and lack of enforcement provisions throughout the regulation. The NOA believes current language invites the use of loopholes at the expense of oversight and public protection.

The proliferation of unregulated relationships is also creating a 2-tiered government system for licensees in which certain licensees are insulated from NSBO purview.

In its current form, what is intended to enable a licensee to "outsource" operational duties to focus on clinical care, has ballooned into arrangements where non-regulated entities are allowed to dictate critical functions of eye care providers leaving the provider (and the public) to the devices of private equity funds and giant retailers. It appears to the NOA that the NSBO's disciplinary authority is being systematically eroded in favor of non-regulated entities engaging in regulated activities.

- Specifically, Section 1(b) states that the optometrist "must maintain financial and organizational independence from any person who is not licensed to practice optometry, other than the physician" but passively allows Management Service Organizations to engage in management contracts which may control most of the Practice's revenues.

The NOA proposes such arrangements be reviewed by the NSBO and approved for compliance.

- Lack of specificity in Section 2 invites MSOs and other non-licensees to hide behind management contracts that obscure financial independence.
- Section 3 contains contradictory language which masks the demarcation between clinical and operational judgement. Specifically, the NOA believes that unregulated decisions regarding clinical staffing can and do impact clinical decision-making. In the current environment of vertically integrated MSOs, many unregulated entities have a vested, and possibly conflicted interest in imposing programs such as, but not limited to EMR products, supply chain constrictions, and captured prospective patients in business relationships.

“Such duties must be limited to duties concerning the operation of the business and may include, without limitation, performing services related to payroll, human resources, real estate, regulatory matters not related to health care, banking, accounting, administration of benefits, marketing, merchandising, occupancy, accounts payable, accounts receivable, supply chain management, business development, business administration, labor, compliance with applicable laws and regulations, purchasing and medical billing.”

The NOA proposes

1. Eliminating the use of the terms “limited” and “without limitation” within the same sentence.
2. Replace the term “payroll” with “payroll administration”.
3. Limit certain restrictions on supply chain management, EMR, and associated entity’s vision benefit manager subsidiaries.

The NOA respectfully urges the Nevada State Board of Optometry to consider these recommendations as part of its review of Nevada’s regulatory framework.

Entities whose sole purpose is not aligned with the values and mission of the NSBO represent threats to Nevadans in need of eye care and should be regulated uniformly.

The NOA appreciates the Board’s attention to these issues and welcomes the opportunity to participate in further discussion or provide additional input as this process moves forward.

Regards,

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President



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Past President



Steve Nguyen, O.D.
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Frances Lynn Jones, O.D.
Board Member at Large

Francis Jones, OD

PROPOSED REGULATORY AMENDMENTS

NAC 636.245 and NAC 636.250

Streamlined Draft for Board Consideration

SUBMISSION CONTEXT

Submitted in response to Executive Order 2026-003, issued August 17, 2026, directing Nevada boards and commissions to review regulations for opportunities to streamline, clarify, amend, repeal, or otherwise improve the regulatory environment. This version consolidates duplicative provisions while preserving the substantive safeguards, disclosure duties, record access, and enforcement mechanisms of the prior draft.

Reference: Executive Order 2026-003, Sections 1-3 (Aug. 17, 2026).

September 21, 2026

Nevada State Board of Optometry

NAC 636.245 - Business relationships with persons not licensed to practice optometry; independence; compensation; disclosure; records; enforcement.

(NRS 636.125, 636.295, 636.301, 636.372, 636.373)

1. Permitted business relationships; written agreement.

An optometrist may form an association or other business relationship with a person, other than a physician, who is not licensed to practice optometry for bona fide nonclinical business functions. Such functions may consist only of services related to payroll administration; human resources; real estate; regulatory matters not related to health care; accounting services; administration of employee benefits; marketing; merchandising; occupancy; accounts payable and receivable; supply chain management in accordance with NRS 686A.135; business development and administration; labor; compliance; purchasing; technology and information systems; and medical billing and collection.

Nothing in this subsection authorizes an unlicensed person to practice optometry or to control the bank accounts, professional revenues, assets, financial decisions, professional judgment, governance, or economic ownership of the optometric practice.

If the unlicensed person receives compensation or other economic benefit, the relationship must be in writing and must identify the parties and services; state the material rights and obligations and the method of compensation; separately identify material compensation for management or administrative services, personnel, real property, equipment, technology to include communication platforms, internet, intellectual property or trade names, customer relationship management, patient recall, marketing, billing or collection, purchasing or procurement, financing, and other material goods or services; provide the optometrist access to records reasonably necessary to demonstrate compliance; and grant no authority prohibited by chapter 636 of NRS or this chapter. Duties imposed by this section may not be waived, transferred or avoided by contract, and conduct required by a management agreement, lease, financing agreement, corporate policy or instruction of another person does not excuse noncompliance.

2. Professional and organizational independence.

A licensee shall comply with applicable Internal Revenue Service requirements, maintain actual professional, organizational and financial independence from an unlicensed person, and retain ultimate authority over the optometric practice as required by chapter 636 of NRS. Independence must exist in actual operation and not merely in the title, form, or wording of an agreement.

An unlicensed person shall not directly or indirectly control, dictate, influence or interfere with professional judgment. The optometrist must retain ultimate authority over clinical decisions; diagnosis and treatment; clinically appropriate examination and treatment time; patient scheduling, access or quality of care; scope of professional services; clinical facilities, equipment, diagnostic procedures, contact lenses, ophthalmic lenses, eyeglass frames, drugs and treatment protocols; referrals; medical records; clinical policies; and the hiring, credentialing, supervision, discipline, termination and professional compensation of licensed health care professionals to the extent those matters directly or indirectly affect professional judgment or patient care.

An unlicensed person shall not possess an irrevocable proxy, power of attorney or similar authority over ownership or governance; unilaterally select, replace or remove an owner or control a successor owner; require transfer of an ownership interest upon termination of a business-services relationship except under an arrangement agreed to by the licensee; control governing documents so as to render the licensed owner's rights nominal or illusory; use contractual, financial or operational rights to compel a change in professional judgment; or otherwise possess rights substantially equivalent to those of an owner.

3. Financial independence; compensation and residual earnings.

Compensation or other economic benefit paid to an unlicensed person must be for identifiable, bona fide goods or services actually furnished; commercially reasonable; and consistent with fair market value. It must not compensate for the optometrist's professional license, the right to practice optometry, professional goodwill, patient relationships or referrals, the right to furnish professional optometric services, or any other right that may lawfully belong only to the optometrist or optometric practice; constitute a prohibited division of professional fees; provide a continuing or residual economic interest substantially equivalent to ownership; or have the purpose or practical effect of transferring the predominant economic benefit of the optometric practice to a person not legally authorized to own it.

After payment of reasonable and necessary practice expenses, including fair-market-value compensation for bona fide goods and services, residual earnings and economic benefits must remain for the benefit of persons legally entitled to own the optometric practice. An unlicensed person shall not have a right to substantially all or a predominant portion of residual earnings, to the revenues remaining after a salary, guaranteed payment, fixed distribution or other limited

benefit to the licensed owner, to an ownership-equivalent economic interest, or to a payment priority that makes the licensed owner's economic interest nominal or illusory. This subsection does not prohibit rent permitted by NRS 636.372.

4. Ownership-equivalent arrangements; aggregation; substance over form.

A licensee shall not participate in an arrangement in which the licensee owns an optometric practice in name or form while an unlicensed person possesses the predominant economic interest or actual control ordinarily associated with ownership. In determining compliance, the Board may consider the totality of the circumstances, including whether:

- (a) The licensed owner receives only a salary, guaranteed payment, nominal distribution or other limited economic benefit while the unlicensed person receives substantially all or a predominant portion of the remaining economic benefit;
- (b) The unlicensed person has unilateral authority to sweep, transfer, retain, pledge, encumber or otherwise dispose of practice revenues or accounts receivable, or professional revenues are deposited into or automatically transferred to an account owned by or maintained for the benefit of the unlicensed person;
- (c) Termination of the business relationship requires the licensee, as a practical matter, to surrender ownership or control, or the unlicensed person controls the disposition, transfer or succession of ownership;
- (d) The amount, structure or priority of payments leaves the licensed owner without a meaningful residual economic interest, or the unlicensed person receives the material benefits and bears the material risks ordinarily associated with ownership; or
- (e) The combined contractual, financial, governance, technological or operational rights held by the unlicensed person are substantially equivalent to ownership or control.

The Board may aggregate all agreements, transactions and transfers of value between the optometric practice, the unlicensed person and its affiliates, including management and administrative fees, billing and collection charges, rent and occupancy, equipment, staffing, technology, intellectual property or trade-name fees, marketing, purchasing and procurement, consulting or business-development fees, financing charges, rebates, credits and similar economic benefits. An arrangement that would violate this section as a single agreement does not become permissible because it is divided among multiple agreements, entities, affiliates, accounts, invoices or payment categories.

The Board may consider the actual operation, financial effect and economic substance of the relationship and is not bound by the title or characterization of an agreement or payment, the number or form of entities used, or a representation that the optometrist owns or controls the practice if the actual relationship demonstrates otherwise.

5. Professional revenues and financial accounts.

Professional revenues must be deposited into an account owned by or maintained for the benefit of the optometric practice, and the licensed owner or owners must retain ultimate authority over the disposition of practice revenues and financial accounts. An unlicensed person may receive only the limited access reasonably necessary to perform authorized ministerial services such as account reconciliation, payment processing, payroll or accounts payable; such access must not confer beneficial ownership or unilateral economic control. The unlicensed person may not transfer practice funds to itself or an affiliate except for amounts properly due under an agreement that complies with this section, and the licensed owner must have sufficient access to determine the practice's revenues, expenses, assets, liabilities and material transfers of value.

6. Disclosure and annual certification.

A licensee shall disclose to the Board, on a form prescribed by the Board, each material relationship subject to this section. The disclosure must identify the parties; direct and indirect ownership or control of the unlicensed entity; affiliates receiving material compensation or economic benefit; the goods or services furnished; the method of material compensation; persons with authority over material financial accounts, governance or ownership transfers; and material management, administrative-services, lease, equipment, staffing, billing, intellectual-property, financing or similar agreements. The disclosure is due within 30 days after entering the relationship, with the first renewal after the effective date for an existing relationship, and within 30 days after a material change.

At each renewal, a licensee subject to this section shall certify or declare under penalty of perjury, in the form prescribed by the Board, that all required relationships and material changes have been disclosed; the information is complete and accurate; no undisclosed material written or oral arrangement exists; the licensee maintains the professional, organizational and financial independence required by this section; no unlicensed person possesses prohibited professional control, financial control or an ownership-equivalent economic interest; and the licensee has access to records reasonably necessary to verify compliance.

7. Records; access; production; investigation.

A licensee shall maintain records reasonably sufficient to demonstrate compliance, including material business agreements; leases; staffing, billing, marketing, technology, purchasing and financing agreements; organizational and ownership records; governing documents; proxies, powers of attorney, succession agreements and transfer restrictions; records identifying persons with authority over material financial accounts or computerized systems; general ledgers and financial statements sufficient to identify material revenues, expenses and transfers; invoices supporting material charges; and appraisals, valuations or fair-market-value analyses relied upon by the parties. Records must be retained for at least ten years after the later of their creation or termination of the agreement to which they relate.

A licensee shall not enter into, extend or renew a relationship subject to this section unless the agreement gives the licensee the right to obtain records reasonably necessary to demonstrate compliance, requires the service provider to furnish those records within a reasonable time, permits their production to the Board, and requires compliance with lawful subpoenas or compulsory process. Confidentiality or nondisclosure provisions do not excuse production to the Board pursuant to lawful authority.

Upon written request of the Board, Executive Director or authorized investigator, a licensee shall produce responsive records within the licensee's possession, custody or control not later than 15 business days after receipt unless another period is specified for good cause. A licensee may not avoid production because a record is maintained by a management company, billing company, accountant, landlord, financial institution, affiliate, attorney or other person if the licensee has a contractual or legal right to obtain it, except to the extent a lawful privilege applies.

The Board may use its lawful inspection, subpoena and investigative authority to review agreements, financial records and account authority; inspect premises; interview the licensee and employees; and examine the actual operation of the relationship as reasonably necessary to determine compliance.

8. Violations; corrective action; advertising; no waiver.

A licensee violates this section by failing to make a required disclosure, report a material change, certify compliance, maintain or timely produce required records, or cooperate with a lawful investigation; knowingly providing materially false, incomplete or misleading information; maintaining an undisclosed material written or oral arrangement; concealing the actual operation or economic substance of a relationship; or altering, destroying or concealing relevant records after notice of a complaint, investigation, inspection, subpoena or request. Each failure to disclose, report, certify, maintain or produce required information may constitute a separate violation and grounds for discipline under NRS 636.295 and NAC 636.230.

As authorized by chapter 636 of NRS, the Board may require corrective action reasonably related to a violation, including amendment or termination of a noncompliant agreement; restoration of professional, organizational or financial control to the licensee; an independent fair-market-value analysis; periodic compliance reports; audit or monitoring; and other lawful corrective measures. Proof of actual patient injury is not required when the conduct otherwise constitutes grounds for discipline.

Advertising, signage, websites and promotional materials must accurately portray the relationship and must not falsely or misleadingly represent that an unlicensed person owns, controls or provides the professional optometric services of the practice. Duties imposed by this section may not be waived, transferred or avoided by contract, and conduct required by a management agreement, lease, financing agreement, corporate policy or instruction of another person does not excuse noncompliance.

9. Definitions.

- (a) "Affiliate" means a person or entity that directly or indirectly controls, is controlled by or is under common control with another person or entity.
- (b) "Fair market value" means the value of goods or services resulting from bona fide arm's-length bargaining between well-informed parties without taking into account patient referrals, the optometrist's professional license, the right to furnish professional optometric services, or another consideration that may not lawfully be transferred to an unlicensed owner.
- (c) "Financial independence" means that the licensed owner retains a genuine and substantial economic interest in and financial authority over the practice and that an unlicensed person does not possess the predominant economic interest, beneficial ownership or financial control of the practice.
- (d) "Material change" means a change that could reasonably affect professional, organizational or financial independence or materially alter the economic relationship between the practice and an unlicensed person.

- (e) "Ownership-equivalent economic interest" means a contractual, financial or other interest that, considering the totality of the circumstances, provides substantially the same economic benefits or financial control as ownership of the optometric practice.
- (f) "Residual earnings or profits" means practice earnings remaining after reasonable and necessary expenses, including commercially reasonable compensation at fair market value for bona fide goods and services.
- (g) "Unlicensed person" means a person who is not licensed to practice optometry pursuant to chapter 636 of NRS.

NAC 636.250 - Separation between office of optometry and other businesses; operational independence; prohibited relationships; enforcement.

(NRS 636.125, 636.295, 636.300, 636.301)

1. Physical and operational separation.

A licensee whose office is located in a part of a building, premises or commercial establishment where an unlicensed person conducts business shall maintain a clear physical separation by partition or wall and shall maintain separately from the unlicensed business: (a) a reception area; (b) a cash drawer or other system for receiving payments; (c) patient scheduling; (d) staff; (e) computerized systems used for the optometric practice; (f) medical records; (g) professional financial accounts; and (h) the physical space used to provide optometric services.

The separation must be actual, functional and operational, not merely nominal, contractual or physical. A wall, separate legal entity, trade name or written agreement does not establish compliance if the actual operation of the businesses gives the unlicensed person prohibited professional, organizational or financial control.

2. Determining operational separation; shared systems.

In determining compliance, the Board may consider who employs, pays, supervises and directs personnel; controls patient scheduling, professional fees, merchant processing or financial systems; owns or controls telephone numbers, websites, domain names or patient-facing communications; possesses administrator credentials or access to scheduling, billing, electronic health record or financial systems; performs duties required to remain separate; controls access to the office, professional equipment, patient records or financial information; and whether patients can reasonably distinguish the optometric practice from the unlicensed business. The Board may also consider whether the unlicensed business can discipline, terminate or economically penalize an optometrist because of a professional decision and the actual operation and practical effect of the relationship.

A licensee may purchase bona fide administrative or technological services from an unlicensed person only if the arrangement complies with NAC 636.245 and does not defeat the separation required by this section. Access rights must be limited to what is reasonably necessary to perform authorized services; the optometrist must retain ultimate control of professional functions and access to patient and financial information; and administrator or technological access may not be used to exercise prohibited control or to combine the businesses into a single operation under the control of the unlicensed person.

3. Prohibited employment and legal representation.

A licensee shall not: (a) use legal representation paid for or arranged by an unlicensed person in a Board proceeding concerning the business relationship between the licensee and that person; or (b) except as authorized by NRS 636.347, serve as an employee or independent contractor of a person who is not licensed to practice optometry. In applying paragraph (b), the Board may consider the substance and practical operation of the relationship and is not bound by the licensee's designation as an owner, shareholder, member, partner or other title.

4. Disclosure, certification and records.

A licensee subject to this section shall disclose to the Board each location at which the optometric practice is co-located with an unlicensed business and the parties have a lease, sublease, management, administrative, payroll administration, marketing, and technology. The disclosure must identify the other business, the nature of the relationship, and any lease, sublease or occupancy agreement. A material change must be reported within 30 days. The Board may permit this disclosure to be combined with the disclosure required by NAC 636.245.

At renewal, the licensee shall certify that each required location has been disclosed; the physical and operational separation required by this section is maintained; no undisclosed arrangement materially alters that separation; the licensee is not serving as an employee or independent contractor; and the licensee maintains the independence required by NAC 636.245.

The licensee shall maintain records reasonably sufficient to demonstrate compliance, including leases and subleases; floor plans or similar records showing occupied areas; staffing agreements and payroll records sufficient to identify the employer; agreements concerning scheduling, computer, billing, payment or shared systems; and records

identifying persons with administrator access to material computerized systems or authority over material financial accounts. The retention, access, production and service-provider record-access requirements of NAC 636.245 apply to these records.

5. Inspection; substance over form.

The premises and operations of a licensee subject to this section are subject to inspection as authorized by NRS 636.296. An inspection may examine physical separation, reception and staffing arrangements, scheduling, computerized and payment systems, signage and patient-facing communications, access to patient records, and administrator or financial access privileges reasonably relevant to determining control. The licensee shall cooperate with a lawful inspection or investigation.

The Board may consider the totality of the circumstances and actual operation of the businesses. Separate legal entities, contracts, trade names, legal title held by the optometrist, characterization of the relationship as a lease, management arrangement, license or independent professional practice, or the existence of physical barriers does not establish compliance if the practical effect is prohibited professional, organizational or financial control by the unlicensed person.

6. Violations; corrective action; relationship to NAC 636.245; no waiver.

A violation includes failure to maintain required physical or operational separation; failure to disclose, certify, maintain or timely produce required records; knowingly providing materially false, incomplete or misleading information; maintaining an undisclosed material arrangement affecting separation or control; concealing common staffing, scheduling, financial, technological or operational control; or obstructing or failing to cooperate with a lawful inspection or investigation. Each required disclosure, certification, record or production obligation may constitute a separate violation. The disciplinary, corrective-action and no-patient-injury provisions of NAC 636.245 apply to violations of this section.

A relationship subject to both NAC 636.245 and this section must comply with both. Physical separation does not establish financial or organizational independence, and financial or organizational independence does not excuse physical and operational separation. Evidence relevant to one section may be considered in determining compliance with the other. The requirements of this section may not be waived, transferred or avoided by contract, and a lease, management agreement, commercial policy or other contract does not excuse noncompliance.

END OF PROPOSED STREAMLINED DRAFT