

NEVADA STATE BOARD OF OPTOMETRY



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MINUTES

THE NEVADA STATE BOARD OF OPTOMETRY TELEPHONIC MEETING Tuesday, March 26, 2019, beginning at 12 Noon AGENDA

1. **Welcome and Call to Order, Roll Call.**

President Young called the meeting to order at 12:05 p.m. via teleconference from Las Vegas, Nevada. All members were present, along with staff: Caren C. Jenkins, Executive Director; Deputy Attorney General Sarah Bradley; Board Counsel; Laura Adair, Licensing Specialist; and guests: Timothy Elson, Esq. representing Dr. Amel Youssef, and Jennifer Benavides, President of the NV Board of Dispensing Opticians.

2. **Public Comment.** No public comment was offered.

3. * **For Possible Action.** Consideration and approval of the minutes of February 7, 2019 and March 5, 2019 meetings was tabled as the minutes were not yet available.

4. * **For Possible Action.** Consideration of a proposed **Stipulated Settlement of Consolidated Complaints Nos. 19-11 & 19-05** regarding the conduct of **AMEL YOUSSEF, O.D., Lic. 449.** Timothy Elson, Esq. for Respondent, and Executive Director Caren C. Jenkins propose a jointly prepared resolution to the Consolidated Complaints.

Ms. Jenkins provided an overview of the document included in the meeting materials. Mr. Elson stated that VSP's allegations may have been overreaching in certain aspects, but there were areas for improvement and that is why he proposed and negotiated the stipulated settlement with Ms. Jenkins.

Dr. Young asked Mr. Elson to describe how the third-party billing will work during the two years of probation. He responded that all patient billing will be handled by the outside third parties, including cash, insurance, credit card and vendors.

Dr. Young advised Dr. Youssef that she still has responsibility and oversight over her practice, and that she is still responsible for these third party companies for her billing.

Dr. Austin moved to accept the stipulated settlement agreement, seconded by Dr. Young. Approved unanimously, motion carries.

5. **Board Update**

a. **AB77 Update:** presented by Vice-President and Legislative Subcommittee

Dr. Smith stated that the Board's 2nd hearing at the Assembly Committee on Commerce and Labor is scheduled for 3/27/19. There is no new information to present, but there are a few items that need to be addressed regarding disagreements.

Dr. Smith stated that the first issue to be addressed is the opticians removing the requirement for a valid prescription before duplication of lenses. Ms. Jenkins stated that several meetings between the opticians' and lobbyist and the board's lobbyist have taken place. The dispensing opticians had prepared a proposal, which was later determined to be pre-empted by existing language in their own chapter, regarding optometrists' assistants to dispense glasses. NRS 637 explicitly states that optometrists and their employees are not subject to the chapter, so this proposed amendment was not pursued. It is not certain what will be discussed. The amendments that Dr. Smith will present on 3/27 include compromises that should help opticians obtain or verify a valid prescription before duplicating.

Dr. Smith stated the only other point for possible discussion is having a maximum dollar amount for fees. One committee member suggested that we just set the fees in statute without placing a maximum limit. If not resolved today this issue may be brought up at the meeting on 3/27/19.

b. Optometry and Board-related measures Update:

presented by Executive Director Caren C. Jenkins and Board Counsel Sarah Bradley, Esq.

Ms. Jenkins provided a list of current bills that may impact the practice of optometry and/or the board; all but two have been introduced. She is tracking this legislation and provided a brief explanation. She encourages the board to review the bill text. Ms. Jenkins may be asked to attend the hearings to offer information about the bill's effect on the board. Of note, there is a BDR that requires agencies to reach out to immigrants to assist them to gain licensure. Currently the board's educational licensure requirements require graduation from one of the ACOA approved/accredited optometry schools. If this measure passes, some adjustments will need to be made to the Optometry regulations. Ms. Jenkins will keep the board posted on the status.

Also of concern is one bill which allows us to recover the costs of accepting credit cards, and another bill which prevents the board from recovering any credit card processing fees. Just last year, \$7,700 was expended for credit card processing and we were able to recover that amount. Our 3.5% convenience fee is based on the 3.34% fee that we pay, plus a monthly fee of \$25-\$40 for online systems to accept those transactions. Other than the controlled substance issue, not many other bills affect the board operations or optometrists.

Ms. Bradley commented that she reviewed the bill regarding credit card recovery costs and it is expected to be amended to allow us to recover the fee. The intent is to not make money. She also noted that she will send other measures to Ms. Jenkins; one regarding reciprocity requirements, and another related to criminal convictions and licensure eligibility.

Dr. Young asked Ms. Bradley if the bill pertaining to reciprocity applies to Nevada practitioners' access to licensure in other states. Ms. Bradley stated that the measure

applies to practitioners wanting to come to NV, and that most licensing boards already have endorsement statutes in place. The intent is that all licensing boards will offer licenses by endorsement to address the lack of providers in NV.

Dr. Young commented that AB77 would encourage more optometric providers to come to NV, because currently some must take a step back in therapeutics and glaucoma practice.

c. **Executive Director's Report**

- Regulatory Reprieve and outreach efforts;
- Licensing & renewals,
- ARBO appointments
- Guidance regarding Clinical licensure

Ms. Jenkins reminded the board that it is has implemented a regulatory reprieve through May 1 with regard to the corporate structure and formation regulations. She is meeting with Ms. Maria Nutile to finalize the details and they are cooperating with NOA There may be more specific information to share once the legislative session is over, so the plan is to then do an update after the changes become law.

The license renewal season is over! As of this date, including the last three months of activity, we currently have 50 actively inactive licensees, 501 practicing active licensees, for a total of 551 licensed optometrists; approximately 10% more than a year or two ago. We have suspended 18 licenses for non-renewal—of them 7 individuals are intentionally expiring, one of whom is deceased. We had a total loss of 26 licensees. In the last quarter, we have issued 8 new licenses.

Our current licensed population is 551 which is a very encouraging number. Of the 18 that are currently suspended, several of them have been gathering their CEs, etc. to meet the requirements. Our current statute allows them to do that until July 30th without additional penalty. Ms. Jenkins estimates that the board can expect to recover approximately one-third of these licensees, and that about two-thirds will lapse into expired status as of December 31, 2019.

Ms. Jenkins also stated that she is pleased to have the entirety of our licensure fees deposited into our bank account. This will be helpful when we start our budgeting process.

Clinical licensing requirements – NRS 636.227 imposes licensing of extended clinical facilities, which does not apply to clinicians practicing with existing licensees. Ms. Jenkins asked the Board whether the language matches the Boards' intent, and received an affirmative response.

NRS 636.350 – Fictitious Name Statute – The current statute is being improperly applied; should it be required for every optometrist or only business owners? Ms. Jenkins has an April meeting with Ms. Nutile, and then the board will need to address the matter in the regulations. Fill-Ins may not know the fictitious name of the absent doctor. The name of the practice/owners needs to be added to the license renewal form.

Dr. Smith made a motion to add an amendment to AB77 that not every optometrist needs a fictitious name certificate, only business owners, seconded by Dr. Young. All in favor, approved unanimously.

Regarding the ARBO membership, Ms. Jenkins is on three committees: (1) Contemporary Issues Committee, (2) Judicial Consideration Committee which reviews constitutional/court decisions and ARBO resolutions, and (3) Member Board Executives Committee. Dr. Smith has been selected to

attend the ARBO conference in St. Louis in June, but has not yet been notified regarding whether she will be granted a scholarship to help with fees and travel costs.

The FARB membership covers all Board and staff members. Ms. Bradley attended for resources on case law, etc. and recommends the Board join FARB.

6. **Announcements and Board Member Requests for future Board consideration.**

The next board meeting is scheduled for May 21, 2019 at Noon, by telephone.

The board meeting on June 25th is scheduled for an in-person meeting in Reno; this is the last meeting to discuss the proposed biennial budget.

None.

7. **Public Comment.**

Ms. Benavides reminded the board of the conflicts with proposed language in AB77 Section 10, regarding opticians being required to verify a valid prescription before duplicating eyeglasses.

8.* **Adjournment.** President Young adjourned the meeting at 12:45 p.m., on unanimous vote.

Motion by Dr. Austin, seconded by Dr. Smith.

Approved by Board Vote on

05/21/2019

/s/

Caren C. Jenkins, Executive Director