

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

June 22, 2023

1. **Roll Call, Call to Order, Welcome, Introductions.** President Mariah Smith, O.D. opened the live meeting at 8:37 a.m. Board members, Jeffrey Austin, O.D., Stephanie Lee, O.D., and Drew Johnson were present. Also attending were Executive Director Caren C. Jenkins, Nancy Padilla, Licensing Specialist and Deputy Attorney General Ziwei Zhang, Esq.
2. **Public Comment.** No public comment was offered.
3. **Consideration of draft and approval of Board Meeting Minutes of April 20, 2023, Meeting.** Stephanie Lee, O.D. moved for approval of the minutes as presented. Jeff Austin, O.D. seconded the motion. Motion passed unanimously.

Items #4 and #5 were combined in the meeting.

4. **Overview of general government measures passed in the 2023 Legislative Session that may affect the Board, including 2022-23 and 2023-24 grant of Employee retention pay, State employee pay adjustments, open meeting law changes, establishment of position within Department of Business & Industry regarding Boards, and more.**
5. **Comprehensive report regarding measures passed in the 2023 Legislature Session that may affect the Board, including AB 432 of the 2023 Legislative Session, Chapter 230 Effective October 1, 2023; Discussion of outreach, education, and enforcement; Formulate plans to develop related regulations; OSLE update and other next steps.**

Executive Director Caren C. Jenkins provided a report on Bill SB431 - Office of Boards, Commissions and Councils Standards, AB432 - Optometry Board and SB134 - Optometry Nevada Optometric Associations will be effective October 1, 2023. Dir. Jenkins reported that SB431 was promoted by Governor Lombardo and established a new Deputy Directory of Department of Business and Industry who would be the director of the office of Boards, Commissions and Councils Standards, to oversee centralized administration, establish a central repository of information, and create

efficiencies in collaboration standards across Boards in licensing and discipline. Dir. Jenkins also reported on AB522 – Compensation of State Employees, the classified pay Bill. Governor Lombardo proposed and implemented a cost-of-living adjustment of 8-10% to all classified employees. Dir. Jenkins indicated that at the next Board meeting, someone be assigned the responsibility for the implementation and education of AB432 and NAC 636 regulations. Drew Johnson commented on Governor Lombardo's executive order to eliminate Boards and Commissions that are regulated in fewer than half of the states. Drew indicated that the only Board affected that relates to optometry is the Board of Dispensing Opticians.

6. **Discussion of status of Thentia Cloud for Government SaaS contract; determination of whether to terminate or continue.** Dir. Jenkins provided a history and status of the project. Jeff Austin, O.D. made a motion to authorize the expenditure of funds to update our current system for renewals as quickly as possible. Stephanie Lee, O.D. seconded the motion. After further discussion Jeff Austin made a revised motion to authorize the expenditure of funds to update the current system for 2024 renewals, and to ask the Attorney's General office to assist us in terminating the Thentia contract, trying not to pay the March 2023 delayed invoice payment. Stephanie Lee seconded the revised motion. The motion passed unanimously.

7. **Executive Director's Report.**

- A. Quarterly Licensing Report – to be reported in the next Board Meeting.
- B. ARBO Conference-Stephanie Lee, O.D. will NOT attend.
- C. Transition expectations – the transition of banking responsibilities is a priority.
- D. Other reports or announcements.

Dir. Jenkins announced that her last day working at the Board office will be July 5, 2023, due to her impending retirement, and her last day as a Board employee will be September 14, 2023. She reminded the members that the first Board meeting of the fiscal year in July is Board elections, and there are no term limits on officers. Some physical files that exist in the office must be retained as public records. Dir. Jenkins indicated the possible need for storage or archival of records if the Board office were to be closed for remote employment.

After a break, the meeting was reconvened at 10:00 a.m.

8. **Requests for Declaratory Relief**

- A. **Robert Horner, O.D. regarding/Optical Retailer providing certain administrative services to an optometric practice.** Dr. Horner attended the meeting over speaker phone for this portion of the meeting only. Drew Johnson made a motion that Dir. Jenkins write a letter in support of Dr. Horner to Wal-Mart, outlining that outside entities contracted with to fill-in patient names on a schedule prepared by the doctor and that they may be filled in by Wal-Mart or another contracted third-party is allowed. Jeff Austin, O.D. seconded the motion. Motion passed unanimously.

- B. **Jason Bolenbaker, O.D. regarding delegation of certain tasks to employees of an optometric practice.** After discussion Mariah Smith, O.D. made a motion to respond to Jason Bolenbaker, O.D. referencing NRS 636.346, that the assistant might be able to do a contact lens OR, evaluation of the contact, use of the ophthalmic devise under the direct supervision of an optometrist, and with the final examination being performed by the optometrist. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.
9. **Consideration of Agency Budget; Review of 2020-2023 Income and Expenditures; Consideration and decisions regarding proposed budget and factor for 2023-2024, including contribution requirement for PERS, Staff salaries and office space, among others.** Director Jenkins provided a line-item explanation of the budget including contingent costs due to possible remote office transition, website updates, personnel, and compensation changes, and future legal fees. Drew Johnson recommended that all the retention bonuses from Gov. Lombardo be paid to both Caren Jenkins and Nancy Padilla, and to apply an 8% cost-of-living adjustment (AB522) starting in the new fiscal year, beginning July 1, 2023. Drew Johnson additionally recommended that the Board investigate shared staffing with other smaller Boards. Mariah Smith made a motion to approve the budget minus the rent, salaries, and remote-at-home expenditures lines. Stephanie Lee seconded motion. Motion passed unanimously.

After a break, the meeting was reconvened at 1:00 p.m.

10. **Board Interview, deliberations and offer of employment for Executive Director position.**
- A. **Explanation of interview process in a public meeting and explanation of potential for a closed portion of the meeting in certain circumstances.** DAG Ziwei Zheng, Esq., Board Counsel provided a brief presentation of Open Meeting Law and public meeting interviews referencing NRS 241.031. Caren Jenkins provided an explanation of the selection process to the interview candidates.
- B. **Interviews of Ms. Merelyn Bell and Mr. Adam Schneider, the Search Committee's most qualified candidates.** Mariah Smith, O.D. disclosed her previous knowledge of Adam Schneider as being a friend of one her optometry school classmates, but has only seen Adam maybe every three years for minutes at a time. When asked by Dir. Jenkins if her relationship with Adam would interfere with her ability to participate on the Board during the interview, Dr. Smith said that she believed that she could remain unbiased and objective during the interview process.

C. Board Deliberations President Smith asked the candidates to leave the room to allow for board deliberations. The Board recognized that Adam is married to an optometrist and directed him to inform the President of the Board should any conflict of interest arise. President Smith then asked the members for a written ranking of the candidates to determine whether sustained discussion would be necessary. All 4 forms indicated Mr. Schneider as the members' first choice. Dr. Austin moved and Dr. Lee seconded a motion to offer the Executive Director position to Adam Schneider at his requested salary of \$100,000.00 to begin work as soon as possible, granting him authority over the operations of the Board and enforcement of the laws related to the Nevada State Board of Optometry, including authority to exercise control over all Board banking functions. The Board vote on this motion was unanimous.

D. Offer of employment and responses. Following deliberations of the Board, Ms. Bell was requested to appear to state she had not been selected for the Executive Director position. President Smith then requested that Adam Schneider appear. Mr. Schneider offered the non-classified, full-time, exempt position of Executive Director, working remotely from Las Vegas, with employer-paid contributions to PERS, all PEBP benefits, a potential home-office stipend, and all other benefits available to state employees generally. Mr. Schneider accepted the position under the terms offered and stated that he could begin full-time as of August 1, 2023. He offered to come to Carson City for a few days of transition time with Dir. Jenkins.

9. Item 9 re-continued with after deliberation budgetary decisions: Drew Johnson made a motion to keep Nancy Padilla at $\frac{3}{4}$ time, non-exempt and pay up to full-time, when necessary, pay Adam Schneider \$100,000.00 per year plus benefits, and to continue seeking to terminate the lease agreement, and if successful the following month begin paying the two Board employees a \$300.00/month work from home stipend. Jeff Austin, O.D. seconded. Motion passed unanimously.

11. Public Comment. No public comment was offered.

12. Adjournment. Jeff Austin, O.D. moved to adjourn the meeting. Mariah Smith, O.D. seconded the motion. Motion passed. The meeting adjourned at 3:41 p.m.

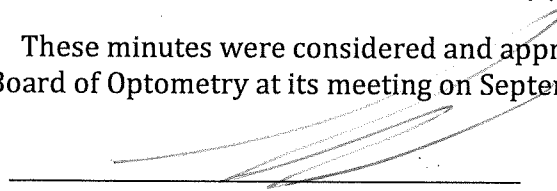
FY 2023 Regular meeting schedule

Thurs. September 20, 2023 – 6:30 pm by Zoom

Thurs. October 26, 2023 – 6:30 pm by Zoom

Tues. November 28, 2023 – 6:30 pm by Zoom

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on September 20, 2023.


Adam Schneider, Executive Director