

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

July 31, 2024

- 1. Action Item 1. Roll Call, Call to Order,** President Mariah Smith, O.D. opened the live meeting at 3:00 p.m. Pursuant to AB219, Meeting ID: 889 4214 6264, Passcode: 420960 Telephone: 1 669 900 6833 were read into the record.
- 2. Welcome, Introduction, and introductory comments from new public Board member.** President Smith and Board members Jeffrey Austin, O.D., Julieta Alamo-Leon, O.D, and Sally Balecha were present via Zoom. Executive Director Adam Schneider attended via Zoom. Deputy Attorney General (DAG) Todd Weiss, Esq. attended via Zoom. Public Member Balecha introduced herself to the membership and the Board.
- 3. Public Comment.** President Smith invited public comment, acknowledging that later in the session public comment would be elicited for the workshop. No comments provided.
- 4. Action Item. Election of Board President, Vice-President and Financial Officer re FY2024-25; changes to Board member access to Board bank accounts.** Director Schneider discussed the recent history of who on the Board was the financial officer, its purpose to demonstrate to the membership that there will be oversight over the Executive Director to ensure Board funds are being spent properly, and the duties of the financial officer. Dr. Smith moved for Dr. Alamo to be financial officer. Dr. Austin seconded. No other nominations. Motion passed unanimously. Dr. Smith moved for Dr. Austin to be vice-president. Dr. Alamo seconded. No other nominations. Motion passed unanimously. Dr. Austin moved for Dr. Smith to be president. Dr. Alamo seconded. No other nominations. Motion passed unanimously.
- 5. Action Item. Consideration and approval of June 27, 2024 Board Meeting Minutes.** Dr. Austin moved to accept as drafted. Dr. Alamo seconded. Public Member Balecha abstained. Motion passed 3-0.
- 6. Action Item. Presentation of proposed settlement terms regarding Complaints 22-4 and 24-11.** DAG Weiss stated the allegations as stated in the proposed Settlement Agreement (SA), then the list of settlement terms as stated in the proposed SA. Dr. Smith suggested an additional prohibition of asynchronous telehealth, retaking the Nevada law exam, full reimbursement (and not partial reimbursement) of DAG attorney fees, and probation. Dr. Austin agreed in full. Dr. Alamo agreed, stated she had not thought about the re-taking of the Nevada law exam, but agreed with that

too. Public Member Balecha agreed, but not as to re-taking the law exam. After two discussions off the record with only DAG Weiss and Respondent and/or Respondent's counsel, a colloquy that a term of probation would impact Respondent's ability to sell Respondent's practice, a rejection of an additional amount of Continuing Education classes in lieu of taking the law exam when it is an open book exam, a colloquy that the law exam does not presently incorporate the new optometric telemedicine laws recently codified into NRS 636 and will require three to four months to do so, and a discussion that incorporation of Complaint 22-4 being dismissed provides closure to the pending appeal, the following terms were modified and/or added to the SA's terms with a proffer from DAG Weiss that the Respondent will agree to accept in further details with the material terms being:

a. pay the Board the sum of Four Thousand Dollars (\$4,000), due within 1 year of the Board's approval of the Stipulation;

b. 2 year restriction on Respondent's Nevada Optometry license, from the date of the Board's approval of the Stipulation, prohibiting the practice of both synchronous and asynchronous optometric telemedicine during that period;

c. for a period of 2 years from the date of the Board's approval of the Stipulation, should the Board make a finding that Respondent has further violated any of Nevada's optometry statutes or regulations, the Board may take the present matter into consideration and increase the discipline imposed for that violation(s);

d. reimburse the Board's legal costs in prosecuting this matter in the amount of up to but not exceeding Five Thousand Dollars (\$5,000), due within One (1) year of the Board's approval of the Stipulation;

e. complete Twenty (20) hours of continuing education (CEs) in addition to the ones already required, due within One (1) year of the Board's approval of the Stipulation. The CE's must be from Board approved instructors and/or entities consistent with R066-19 Section 8(4)-(6) and Board Policy no. 5 section A-B, and must be in the areas of medical ethics, medical billing, medical office management, employee supervision, patient informed consent, medical record keeping and/or telehealth, as is reasonable.

f. retake the Nevada optometry law exam no more than six months after the test has been revised to include questions relating to Nevada telemedicine law, but no less than one year after the Board's approval of this stipulation.

g. accept as a public reprimand for her alleged conduct.

i. Complaint 22-4 will be withdrawn and closed without further action.

j. the matter currently pending in the Eighth Judicial District Court case no. A-22-853243-J will be dismissed with each party to bear their own costs and attorney fees.

k. National Practitioner Databank report.

Dr. Smith moved to accept. Dr. Austin seconded. Motion passed unanimously.

7. Executive Director report re licensing transactions since start of FY2025.

Director Schneider described a new portion of the Board's Agendas to provide more information to the public and the membership about the kinds of transactions and administrative work the Board performs. Director Schneider stated the below list:

New licenses: 4

Licenses by endorsement: 0

Glaucoma: 0

OPAC: 3

Fictitious Name: 0

Location changes: 3
Additional locations: 9
LOGS: 8
PRR: 4
Refunds: 0
Mobile: 0
Substitute location: 0
Public complaints: 5
2026-2028 CE Summaries: 1

As to the public complaints, Director Schneider summarized them as: 1) a licensee's dog allegedly defecating in the clinic's lobby and the patient wanting their money back; 2) one upon an ophthalmologist; 3) one for alleged unnecessary treatments resulting in exhaustion of Medicaid benefits; 4) one for an alleged untimely response to a medical records request; and 5) one for alleged failure/refusal to provide an add-power to a vision prescription.

8. Public Comment. President Smith invited public comment. No comment provided. Dr. Smith confirmed the hearing set for August 27, 2024 specific to Complaint 24-11's hearing is vacated.

9. Action Item. Dr. Smith moved to adjourn the regular meeting. Dr. Austin seconded. Motion passed unanimously. The regular meeting adjourned at 4:01 p.m.

41 persons attended, inclusive of Board members, Executive Director, and Deputy Attorney General.

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FY 2024-2025 Regular meeting schedule

Wednesday 8/28/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 9/26/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Wednesday 10/30/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Wednesday 12/11/2024 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 August 28, 2024.

/s/ Adam Schneider

Adam Schneider, Executive Director