

R066-19 Section 12 proposed revisions

1. If an optometrist forms an association or other business relationship with a physician pursuant to NRS 636.373, the optometrist must:

- (a) Comply with any applicable requirements of the Internal Revenue Service;
- (b) Maintain financial and organizational independence from any person who is not licensed to practice optometry, other than the physician; and
- (c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship.

2. An optometrist shall not employ or be employed by a physician.

~~3. An optometrist may form an association or other business relationship with a person, other than a physician, who is not licensed to practice optometry to perform duties concerning the operation of the business. 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.~~

4. **3.** An optometrist who forms an association or other business relationship with a person who is not licensed to practice optometry, **including, but not limited to, relationships formed for purposes of providing the optometrist support in the operation of the business, such as payroll, human resources, business development, banking, supply chain management, medical billing and business administration** pursuant to subsection 3 shall:

- (a) Comply with any applicable requirements of the Internal Revenue Service;
- (b) Maintain organizational and financial independence from the person who is not licensed to practice optometry and ensure that the person who is not licensed to practice optometry ~~is not involved in~~ **shall not dictate, control or influence:**

- (1) Clinical decisions;
- (2) Scheduling of patients;
- (3) Any decision concerning scope of practice or use of facilities, equipment or drugs; or
- (4) Any other decision concerning the provision of care to a patient or the outcome of any treatment or other service provided to a patient; ~~and~~

(c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship; and

(d) No association or other business relationship entered into by an optometrist with a person who is not licensed to practice optometry shall alter or lessen the optometrist's ultimate responsibility for all exercises of professional or clinical judgment with regard to the conduct of the optometrist's professional practice or patient care.

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- (a) Comply with any applicable requirements of the Internal Revenue Service;
- (b) Maintain financial and organizational independence from any person who is not licensed to practice optometry, ~~other than the physician~~; and
- (c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship.

2. An optometrist shall not employ or be employed by a physician.

3. An optometrist may form an association or other business relationship with a person, **business, or entity**, other than a physician, who is not licensed to practice optometry to perform duties concerning the operation of the business. 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.

4. An optometrist who forms an association or other business relationship with a person who is not licensed to practice optometry, including, but not limited to, relationships formed for purposes of providing the optometrist support in the operation of the business, such as payroll, human resources, business development, banking, supply chain management, medical billing and business administration pursuant to subsection 3 shall:

- (a) Comply with any applicable requirements of the Internal Revenue Service;
- (b) Maintain organizational and financial independence from the person who is not licensed to practice optometry and ensure that the person who is not licensed to practice optometry is not involved in shall not dictate, control or influence:
 - (1) Clinical decisions;
 - (2) Scheduling of patients;
 - (3) Any decision concerning scope of practice or use of facilities, equipment or drugs; or
 - (4) Any other decision concerning the provision of care to a patient or the outcome of any treatment or other service provided to a patient; and
- (c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without

limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship; and

(d) No association or other business relationship entered into by an optometrist with a person who is not licensed to practice optometry shall alter or lessen the optometrist's ultimate responsibility for all exercises of professional or clinical judgment with regard to the conduct of the optometrist's professional practice or patient care.

e) Nothing in this Provision shall obfuscate a Licensee's responsibility, per NRS 636.373 and NAC 636.240 and NAC 636.250 to not engage with a non-licensee who owns any part or portion or shares in profits, of any Nevada optometric Practice.

f) Reference Law:

NRS 636.373 Associations or other business relationships with physicians; prohibition on supervision or control or influence over professional judgment of optometrist unless licensed to practice optometry.

1. An optometrist may form an association or other business relationship with a physician to provide their respective services to patients.

2. If such an association or business relationship is formed, the optometrist may:

(a) Locate his or her office in the same place of business as the physician without a physical separation between the office and the place of business.

(b) Authorize the physician to have access to any medical records in the possession of the optometrist relating to a patient who is being treated by both the optometrist and the physician.

(c) Advertise and promote the services provided by the association or business consistent with the restrictions on advertising set forth in NRS 636.302.

3. A person shall not directly or indirectly supervise an optometrist within the scope of his or her practice of optometry unless the person is licensed to practice optometry pursuant to this chapter.

4. A person, including an officer, employee or agent of any commercial or mercantile establishment, shall not directly or indirectly control, dictate or influence the professional judgment of the practice of optometry by a licensed optometrist, unless the person is licensed to practice optometry pursuant to this chapter.

5. This section does not authorize an optometrist to employ or be employed by a physician.

(Added to NRS by 1995, 2564; A 2019, 3653)

NAC 636.240 Agreements to lease between licensees and unlicensed persons. (NRS 636.125, 636.372) Except as otherwise provided in NRS 636.347, an agreement between a licensee and a person who is not licensed pursuant to the provisions of chapter 636 of NRS for the leasing of a building or a part thereof for use in the licensee's practice must not include a provision that:

1. Authorizes the person who is not licensed to exercise control over the operation of the licensee's practice or his or her employees in violation of the provisions of chapter 636 of NRS.

2. Authorizes the person who is not licensed to share in the profits of the licensee's practice in violation of the provisions of chapter 636 of NRS.

3. Authorizes the person who is not licensed to have access to the medical records of the licensee's patients.

4. Authorizes the licensee to locate his or her office in a part of the building where the person who is not licensed conducts business without providing a clear separation between the licensee's office and the business of the person who is not licensed.

5. Prohibits the licensee from having access to his or her office, equipment or records at any time.

6. Except as otherwise provided in NRS 636.372, authorizes or requires the amount of rent to be determined on any basis other than the fair rental value of the building or a part thereof to be leased.

7. Violates any provision of NRS or NAC which relates to the practice of optometry.

(Added to NAC by Bd. of Optometry, eff. 8-4-94)

NAC 636.250 Separation between office of optometry and other businesses required. (NRS 636.125, 636.300) A licensee who locates his or her office in a part of a building where a person who is not licensed pursuant to the provisions of chapter 636 of NRS conducts business shall construct and maintain a partition or wall in such a manner as to ensure a clear separation between his or her office and the business of the person who is not licensed.

(Added to NAC by Bd. of Optometry, eff. 8-4-94)

From: Amber Belaustegui
To: Director
Subject: New Board Policies
Date: Wednesday, August 21, 2024 7:25:53 PM

Dear Board Members,

In regards to changes being made to prevent coercive tactics of corporations, PE firms, or MSOs, I voiced my concerns at the last meeting. The primary concern being no governing body enforcing the regulations and actions of above mentioned entities.

After reading proposed changes I am very concerned with the wording of an optometrist employed by "an MD," due to the vague nature. First off, the current laws have not prohibited ODs working in conjunction with MDOs. In Northern Nevada most ophthalmology offices has an OD in office. So, this law has not been exactly restrictive. Opening the door to allow any MD to employ an OD greatly worries me in regards to PC holders working in conjunction with PE firms and corporations. The PC president could be any person holding an MD title and again, moving away from the practice and protection of optometrists for optometrists.

Unfortunately, due to patient scheduling, I will be unable to attend next Wednesday's meeting. Thank you for all your hard work and including the voices of Nevada optometrists.

Amber Belaustegui

Sent from my iPhone