

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING August 28, 2024

- Action Item 1. Roll Call, Call to Order.** President Mariah Smith, O.D. opened the live meeting at 12:00 p.m.
- Welcome, and Introductions.** Deputy Attorney General (DAG) Todd Weiss, Esq., and Board members Mariah Smith, O.D., Jeffrey Austin, O.D., Julieta Alamo-Leon, O.D, and Sally Balecha were present via Zoom, Meeting ID: 829 5827 9665, Passcode: 089267, telephone 1 669 900 6833. Executive Director Adam Schneider attended in-person at Nevada Business Center, Red Rock Room, 3300 W. Sahara Ave., 4th Floor, Ste. 440, Las Vegas, NV 89102.
- Public Comment.** President Smith invited public comment, acknowledging that later in the session public comment would be elicited for the workshop. No comments provided.
- Action Item. Consideration and approval of Minutes for July 31, 2024 regular Board Meeting.** Dr. Alamo moved to accept as drafted. Dr. Austin seconded. Motion passed unanimously.
- Action Item. Consideration and approval of Minutes for July 31, 2024 Notice of Intent to Take Action on Regulation (R101-24).** Dr. Smith moved to accept as drafted. Dr. Alamo seconded. Motion passed unanimously.
- Action Item. Consideration and approval of Minutes for July 31, 2024 Workshop (R066-19(12)).** Dr. Smith moved to accept as drafted. Dr. Alamo seconded. Motion passed unanimously.
- Action Item. Subcommittee formation for updated OSLE incorporating NRS 636 post-AB432 codification.** Director Schneider discussed the need to update the OSLE in light of AB 432's codification in NRS 636, and do so timely in light of Complaint 24-11's settlement terms. Dr. Smith asked to pull the analytics from the current test to know the most frequently missed questions to re-work or replace. Director Schneider stated he is in contact with NBEO's OSLE department for that data. Dr. Smith nominated Dr. Austin to head the subcommittee with Dr. Smith and Dr. Alamo submitting some additional questions. Dr. Alamo seconded. Motion passed unanimously.

8. Action Item. Dr. Abrams’ job posting. Director Schneider noted this item was contained in the July workshop meeting materials, discussed at the workshop, and was requested to be on this Agenda. Director Schneider stated there are no statutes and codes in 636 governing job advertisements and the Board has no jurisdiction over OMD job postings. Director Schneider described the job posting and any licensee has a responsibility to enter into an employment agreement that is legal. Dr. Austin commented the job posting is offering employment based upon the benefits being offered, but that the Board does not have jurisdiction over Dr. Abrams. Dr. Austin suggested Director Schneider contact the physician recruiter listed in the job posting to advise about Nevada optometry law as to independent contractor allowance but prohibition on employment with an OMD or private equity, and thus prohibition on the job advertisements’ listed benefits, and that any licensee who agrees to those terms would be subject to discipline and potentially having his or her license suspended or revoked. Dr. Alamo agreed with Dr. Austin’s plan, that a Nevada licensee needs to know Nevada optometry law, and that until a licensee accepts the employment terms there is nothing the Board can do, nor any ability to reprimand any MD. Dr. Austin stated the rationale for this letter would help prevent any licensee from violating the law in advance. Dr. Smith moved for Director Schneider to draft a letter consistent with Dr. Austin’s suggestions, with Dr. Alamo noting the Board has no jurisdiction to mandate the job posting be taken down. Dr. Austin seconded. Motion passed unanimously.

9. Action Item. Director Schneider presented Complaint 25-05 in a double-blind manner. Director Schneider discussed the Eyeglass Rule, the treatment at issue in April 2024 with the manifest refraction listing the add power but the patient wanting reading glasses which do not include an add power, the public complaint in July 2024 is about a staff member not providing the add power, the licensee knows about the complaint but does not provide the patient with the add power, the licensee modifies the prescription on August 1 to include the add power, the spouse calls the clinic on August 9 about missing PDs (pupillary distance), and a Senior Care Plus request on August 20 to prove an add power was provided. The licensee’s office manager was not able to provide proof the prescription with the add power was provided to the patient because they no longer have access to the employee who is presumed to have provided it. Director Schneider stated he contacted the complainant by phone and in writing if the add power was ever provided to her, and no response from the complainant thus far. Dr. Smith after her review of the redacted materials believed it was a miscommunication regarding the differences between PDs and add powers, and that nobody is a bad player in this particular situation. Dr. Austin agreed. Dr. Alamo agreed, and commented it was an EMR issue. Colloquy on the facts of the investigation at present. Colloquy on patients’ confusion of add power versus PDs. Colloquy on the Senior Care Plus’s request and the licensee staff’s response to that request. Dr. Austin moved for Director Schneider to issue a letter to the licensee directing the licensee to send the full prescription including the add power by certified mail with return receipt and provide the Board with the return receipt for the Board to then close this file. Dr. Alamo seconded. Motion passed unanimously.

10. Executive Director report re licensing transactions since start of FY2025. Director Schneider stated the below list:

7/25/2024 - 8/21/2024	FY2025 cumulative
New licenses: 0	4

Licenses by endorsement: 2	2
Glaucoma: 0	0
OPAC: 6	9
Fictitious Name: 3	3
Location changes: 6	9
Additional locations: 13	22
LOGS: 3	11
PRR: 0	4
Refunds: 0	1
Mobile: 0	0
Substitute location: 1	1
Public complaints: 0	5
2026-2028 CE review: 0	1

11. Executive Director report re Certificate of Deposit renewal. Director Schneider reported the CD that the Board approved is making return on investment, it has been renewed for another 150 days at 4% due to a drop in rates from 5%, and he is in communications with Dr. Alamo as the new CFO.

12. Executive Director report re Joint Interim Standing Committee on Health and Human Services 8/12/2024 hearing for R101-24. Director Schneider reported that because portions of R101-24 dealt with the issuance of a license, he attended this Committee meeting to provide testimony for R101-24. The Committee had no questions. R101-24 is presently with Legislative Counsel Bureau, with another meeting Director Schneider will attend to provide testimony on September 13, 2024.

13. Executive Director report re Department of Business and Industry 8/13/2024 meeting. Director Schneider reported he attended this meeting with other EDs and general counsels about possible restructuring of Boards into “super boards” and consolidation of all Nevada licenses in one website and using the Iowa’s DIAL website as the template. Director Schneider stated he would continue to advise the Board of this issue as it progresses.

14. Public Comment. President Smith invited public comment. Dr. Koplow commented that Dr. Abrams’ job post is similar to others and comes from the AOA’s website if the Board wanted additional persons to send the same kind of letter to in order for the MD community to be aware of optometry law. Dr. Abrams is the name on the practice, but not the owner. Thus anybody who works for the practice works for the PE, which begs the question is the OMD doing the advertising or is the non-licensee PE doing the advertising. He asked if the NSBO have a position on the “super board” idea. Dr. Smith stated that idea has been presented before and never come to fruition, so no need to worry until further steps occur.

15. Action Item. Dr. Smith moved to adjourn the regular meeting. Dr. Austin seconded. Motion passed unanimously. The regular meeting adjourned at 1230 p.m.

26 persons attended virtually, inclusive of Board members and Deputy Attorney General. No role call conducted or sign-in sheets provided.

1 person attended in-person, inclusive of the Executive Director. No role call conducted or sign-in sheets provided.

These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on September 26, 2024.

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FY 2024-2025 Regular meeting schedule

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 September 26, 2024.

/s/ Adam Schneider

Adam Schneider, Executive Director