

NEVADA STATE BOARD OF OPTOMETRY



MARIAH SMITH, O.D.
Board President

STEPHANIE LEE, O.D.
Board Member

Post Office Box 1824
Carson City, Nevada 89702
Telephone: (775) 883-8367
Facsimile: (775) 305-0105

ADAM SCHNEIDER, ESQ.
Executive Director

JEFFREY AUSTIN, O.D.
Board Member

DREW JOHNSON
Public Board Member

Materials for

September 20, 2023

Board Meeting

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NEVADA STATE BOARD OF OPTOMETRY

NOTICE OF PUBLIC MEETING

The Nevada State Board of Optometry will hold a Board meeting **via Zoom** on **Wednesday, September 20, 2023, beginning at 6:30 pm PST**

Join Zoom Meeting

<https://us06web.zoom.us/j/83952376407?pwd=Tk83K04xU0p3azFxdmFmbHVkdUZYQT09>

Meeting ID: 839 5237 6407

Passcode: 012613

Telephone access: 669-444-9171

Find your local number: <https://us06web.zoom.us/u/kb5q5I53PB>

The public is invited to attend

AGENDA

NOTE: Items on this agenda may be taken out of order, removed, delayed or combined. An asterisk (*) next to an item indicates that action may be taken at this meeting.

1. **Call to Order**, Roll Call, welcome, introductions.
2. **Public Comment**. No action will be taken at this meeting on any issues presented in Public Comment. Comments are limited to 3 minutes.
3. ***For Possible Action**. Election of Board President, Vice-President and Financial Officer re FY2023-24.
4. ***For Possible Action**. Consideration and approval of June 22, 2023 Board Meeting Minutes.
5. ***For Possible Action**. Executive Director update on Board banking, and possible Motion for Drs. Young and Austin removed from banking access and replaced with Dr. Smith, Public Member Johnson, and Executive Director Schneider.

6. ***For Possible Action.** NRS/NAC clarification re OPAC certification
7. ***For Possible Action.** NRS/NAC clarification re Drug Enforcement Administration CE requirement
8. ***For Possible Action.** NRS/NAC clarification re scope of practice for suture removal
9. ***For Possible Action.** NRS/NAC clarification re COAs' provision of healthcare at optometric offices
10. ***For Possible Action.** NRS/NAC clarification re scope of practice and optometric devices
11. ***For Possible Action.** Board policy for licensee duties upon retirement and/or unexpected incapacitation
12. ***For Possible Action.** Board policy for licensee surname change, e.g., reversion to maiden name or change to spouse's surname
13. ***For Possible Action.** patient A.H. 12/2022 online complaint for determination of jurisdiction
14. Executive Director updates re: 1) status of termination of Thentia purported contract; 2) forum for NAC 636 revisions set for 10/26/2023; 3) start of licensee renewals for 2024-2026 on Saturday 10/28/2023; 4) NRS 333 Purchasing Division- Certified Contract Manager (NVCCM) Initial Certificate Course completion
15. ***For Possible Action.** Consideration of Agency Budget with review for expenditures for physical office closure and transition to dual remote office locations
16. **Public Comment.** No action will be taken at this meeting on any issue presented in Public Comment. Comments are limited to 3 minutes.
17. ***For Possible Action.** Adjournment

* * * * *

FY 2023-2024 Regular meeting schedule

Thurs. October 26 – NAC 636 forum meeting – 6:30p.m. (pst) - phone or Zoom

Thurs. November 28 – Reg. Bd. meeting – 6:30p.m. (pst) – phone or Zoom

* * * * *

❖ The Board is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada State Board of Optometry: in writing at P.O. Box 1824, Carson City, Nevada 89702; via email at admin@nvoptometry.org; or call 775-883-8367 as far in advance as possible.

❖ To request an advance copy of the supporting materials for this meeting, contact admin@nvoptometry.org or call 775-883-8367.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020, before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada State Board of Optometry office, Carson City, NV 89705
- Nevada State Board of Optometry website: <https://nvoptometry.org/>
- Nevada Public Notice website: <http://notice.nv.gov>

Materials for Agenda Item

No. 4

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 device 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 ¾ 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

Materials for Agenda Item

No. 5

From: Director
Sent: Monday, August 7, 2023 2:54 PM
To: Marie West <Marie.West@nsbank.com>
Subject: Information Needed

Marie- attached per your request. Making a note the next set of Minutes need to include approval of removal of Drs. Young and Austin. Thank you for informing me of that.

Sincerely,

Adam Schneider, Esq.
Executive Director
Nevada State Board of Optometry
P.O. Box 1824
Carson City NV 89702
775-883-8367 - office
775-305-0105 – fax
www.nvoptometry.org

Materials for Agenda Item

No. 6

From:

Sent: Wednesday, August 2, 2023 6:30 PM

To: License <license@nvoptometry.org>

Subject: Re: Pharmacy certification questio

Hi Nancy,

Thanks for the clarification. I know you are busy right now and apologize for bothering you. I looked at the Statutes on the Nevada Board website and i saw i could do the hours with an Ophthalmologist in any state, Similarly, there is nothing specific regarding whether the 40 hours I already have completed expire. Since the statutes are silent regarding this issue and since I already had my OPAC in Nevada and have kept up my therapeutic pharmaceutical agents certification in California by completing continuing education requirements, I should be good to go. My situation is not the same as someone coming to practice in Nevada for the first time. There are no lapses in my pharmaceutical licensing history since I completed the 40 hours for my Nevada license. I hope I'm good to go, as you can see I'm trying to get to work asap.

Sincerely,

NRS 636.260 Payment of renewal fee; requirements for continuing education; waiver; presentment of evidence of completion of educational or postgraduate program by licensee certified to administer and prescribe pharmaceutical agents.

2. . . . The Board may waive the requirement that a licensee complete all or part of the required number of hours of continuing education upon good cause shown by the licensee.

. . .

4. A licensee who is certified to administer and prescribe pharmaceutical agents pursuant to [NRS 636.288](#) must, at the time of paying the renewal fee, present evidence satisfactory to the Executive Director that, during the 24 months immediately preceding the payment of the renewal fee, the licensee completed an educational or postgraduate program approved by the Board. . . .

CERTIFICATION TO ADMINISTER AND PRESCRIBE CERTAIN PHARMACEUTICAL AGENTS

NRS 636.287 Requirements for certification: Regulations. The Board shall adopt regulations which prescribe the requirements for certification to administer and prescribe pharmaceutical agents pursuant to [NRS 636.288](#). The requirements must include:

1. A license to practice optometry in this State;
2. The successful completion of the “Treatment and Management of Ocular Disease Examination” administered by the National Board of Examiners in Optometry or an equivalent examination approved by the Board; and
3. The successful completion of not fewer than 40 hours of clinical training in administering and prescribing pharmaceutical agents in a training program which is conducted by an ophthalmologist and approved by the Board.

(Added to NRS by [1995, 1032](#); A [2019, 3645](#))

NRS 636.2882 Conditions and limitations on prescribing controlled substances. An optometrist who is certified to administer and prescribe a pharmaceutical agent pursuant to [NRS 636.288](#) shall not prescribe a controlled substance unless the optometrist:

1. Has completed an optometric examination of the patient for whom the controlled substance is prescribed;
2. Prescribes the controlled substance in an amount that does not exceed 90 morphine milligram equivalents per day and will not last more than 72 hours; and
3. Sets forth in the prescription for the controlled substance that the prescription may not be refilled without a subsequent examination of the patient by the optometrist.

(Added to NRS by [1999, 1913](#); A [2019, 3646](#))

NAC 636.730 Certification to administer and prescribe therapeutic pharmaceutical agents. ([NRS 636.125, 636.287](#))

1. The Board shall provide a certificate to administer and prescribe therapeutic pharmaceutical agents to each optometrist who:

- (a) Is licensed to practice optometry in the State of Nevada and is in good standing.
- (b) Has successfully completed the “Treatment and Management of Ocular Disease Examination” administered by the National Board of Examiners in Optometry on or after January 1, 1993. The Board must receive verification that the person successfully completed the examination from the testing agency.
- (c) Submits a form which meets the requirements set forth in subsection 2 and which states that the optometrist successfully completed a training program of not less than 40 hours of clinical training in administering and prescribing therapeutic pharmaceutical agents which was:

2. Upon completion by an optometrist of a training program which meets the requirements of paragraph (c) of subsection 1 . . . the named optometrist shall certify under penalty of perjury that he or she completed the training program and satisfies all of the other requirements for certification to administer and prescribe therapeutic pharmaceutical agents. . . .

Materials for Agenda Item

No. 7

www.dea.gov

DEA Registered-Practitioners

Dear Registrants:

On December 29, 2022, the Consolidated Appropriations Act of 2023 enacted a new **one-time**, eight-hour training requirement for all Drug Enforcement Administration (DEA)-registered practitioners on the treatment and management of patients with opioid or other substance use disorders. Below is information on this new requirement.

Who is responsible for satisfying this new training requirement?

- All DEA-registered practitioners, with the exception of practitioners that are solely veterinarians.

How will practitioners be asked to report satisfying this new training requirement?

•Beginning on June 27, 2023, practitioners will be required to check a box on their online DEA registration form—regardless of whether a registrant is completing their initial registration application or renewing their registration—affirming that they have completed the new training requirement.

What is the deadline for satisfying this new training requirement?

•The deadline for satisfying this new training requirement is the date of a practitioner's next scheduled DEA registration submission—regardless of whether it is an initial registration or a renewal registration—on or after June 27, 2023. •This one-time training requirement affirmation will not be a part of future registration renewals.

How can practitioners satisfy this new training requirement?

There are multiple ways that practitioners can satisfy this new training requirement.

- First, the following groups of practitioners are deemed to have satisfied this training:

1.Group 1: All practitioners that are board certified in addiction medicine or addiction psychiatry from the American Board of Medical Specialties, the American Board of Addiction Medicine, or the American Osteopathic Association.

2.Group 2: All practitioners that graduated in good standing from a medical(allopathic or osteopathic), dental, physician assistant, or advanced practice nursing school in the United States within five years of June 27, 2023, and successfully completed a comprehensive curriculum that included at least eight hours of training on:

Treating and managing patients with opioid or other substance use disorders, including the appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of a substance use disorder; or

Safe pharmacological management of dental pain and screening, brief intervention, and referral for appropriate treatment of patients with or at risk of developing opioid and other substance use disorders.

- Second, practitioners can satisfy this training by engaging in a total of eight hours of training on treatment and management of patients with opioid or other substance use disorders from the groups listed below. A few key points related to this training:

1. The training does not have to occur in one session. It can be cumulative across multiple sessions that equal eight hours of training.

2. Past trainings on the treatment and management of patients with opioid or other substance use disorders can count towards a practitioner meeting this requirement. In other words, if you received a relevant training from one of the groups listed below—prior to the enactment of this new training obligation on December 29, 2022—that training counts towards the eight-hour requirement.

3. Past DATA-Waived trainings count towards a DEA registrant's 8-hour training requirement.

4. Trainings can occur in a variety of formats, including classroom settings, seminars at professional society meetings, or virtual offerings.

What accredited groups may provide trainings that meet this new requirement?

- The American Society of Addiction Medicine (ASAM)
- The American Academy of Addiction Psychiatry (AAAP)
- American Medical Association (AMA)
- The American Osteopathic Association (AOA), or any organizations accredited by the AOA to provide continuing medical education
- The American Dental Association (ADA)
- The American Association of Oral and Maxillofacial Surgeons (AAOMS)
- The American Psychiatric Association (APA)
- The American Association of Nurse Practitioners (AANP)
- The American Academy of Physician Associates (AAPA)
- The American Nurses Credentialing Center (ANCC)
- Any other organization accredited by the Accreditation Council for Continuing Medical Education (ACCME) or the Commission for Continuing Education Provider Recognition (CCEPR), whether directly or through an organization accredited by a State medical society that is recognized by the ACCME or CCEPR
- Any other organization approved or accredited by the Assistant Secretary for Mental Health and Substance Use, the ACCME, or the CCEPR

We hope this information is helpful. For information regarding the DEA Diversion Control Division, please visit www.DEAdiversion.usdoj.gov. If you have any additional questions on this issue, please contact the Diversion Control Division Policy Section at (571) 362-3260.

Sincerely,

Thomas W. Prevoznik
Acting Assistant Administrator
Diversion Control Division

From:

Sent: Sunday, August 6, 2023 2:48:32 PM (UTC-08:00) Pacific Time (US & Canada)

To:

Subject: [E] - DEA 8 hour requirement course

The course below was recommended to me for satisfying the new DEA 8 hour course requirement. Would our board accept this for continuing ed hours and specifically our separate opioid requirement?

<https://knowledgeplus.nejm.org/cme-moc/pain-management-and-opioids-cme/>

I've heard good things about this course and it's free!

Thank you!

Jim

JAMES A. Beckwith, O.D.
Co-Administrator Southern Nevada
Vision Source

8937 W. Sahara Ave. Suite A
Las Vegas, NV 89117
office 702-254-3558
cell 702-682-7427

NRS 636.2881 Training required for certain optometrists relating to persons with substance use and other addictive disorders and prescribing of opioids; regulations. The Board shall, by regulation, require each optometrist who is certified to administer and prescribe pharmaceutical agents pursuant to [NRS 636.288](#) and who is registered to dispense controlled substances pursuant to [NRS 453.231](#) to complete at least 2 hours of training relating specifically to persons with substance use and other addictive disorders and the prescribing of opioids during each period of licensure. Such training may include, without limitation, training in the screening, brief intervention and referral to treatment approach to substance use disorder. **Any licensee may use training required by the regulations adopted pursuant to this section to satisfy 2 hours of any continuing education requirement established by the Board.**

Materials for Agenda Item

No. 8

From:

Sent: Wednesday, September 6, 2023 11:09 AM

To: admin <admin@nvoptometry.org>

Subject: Question

1. Can optometrists in NV *remove* skin sutures if the surgeon is immediately and physically available for consultation?

NRS 636.025 Acts constituting practice in optometry; unauthorized acts.

1. The acts set forth in this section, or any of them, whether done severally, collectively or in combination with other acts that are not set forth in this section constitute practice in optometry within the purview of this chapter:

(i) Removing a foreign object from the surface or epithelium of the eye.

...

2. The provisions of this section do not authorize an optometrist to engage in any practice which includes:

(b) Any procedure using an instrument which requires the *closure* of human tissue by suture, clamp or similar device.

Materials for Agenda Item

No. 9

From:

Sent: Wednesday, August 23, 2023 10:06 AM

To: Director <director@nvoptometry.org>

Subject: Unsupervised suture removal by COA

Hi Adam,

Thank you so much for your help with this question. Just to reiterate, we are an Optometry practice with no MD's on staff. Dr. ____ is an Ophthalmologist who works out of our office as an Independent Contractor 1 week a month. I want to make sure that his COA is authorized to remove eyelid sutures at the patient's 1-week post-op visit without the supervision of Dr. ____

Thank you,

NRS 636.025 Acts constituting practice in optometry; unauthorized acts.

1. The acts set forth in this section, or any of them, whether done severally, collectively or in combination with other acts that are not set forth in this section constitute practice in optometry within the purview of this chapter:

(i) Removing a foreign object from the surface or epithelium of the eye.

...

2. The provisions of this section do not authorize an optometrist to engage in any practice which includes:

(b) Any procedure using an instrument which requires the *closure* of human tissue by suture, clamp or similar device.

NRS 636.374 Collaboration with ophthalmologist: Records; fixed fee; patient referrals; required documents. An optometrist may, based upon the individual needs of a particular patient, collaborate with an ophthalmologist for the provision of care to the patient, for a fixed fee, regarding one or more surgical procedures if:

3. The collaborating parties agree that the collaborating optometrist will refer the patient back to the collaborating ophthalmologist or, if the collaborating ophthalmologist is not available, another ophthalmologist designated by the collaborating ophthalmologist to provide care to the patient if the medical needs of the patient necessitate the provision of care by an ophthalmologist; and

4. The collaborating parties provide to the patient and maintain in their respective medical records regarding the patient, a written document, signed by each of the collaborating parties and the patient, containing:

(e) A statement that the patient is entitled to return to the collaborating ophthalmologist for postoperative care at any time after the surgery; and

Materials for Agenda Item

No. 10

From:

Sent: Wednesday, September 6, 2023 11:09 AM

To: admin <admin@nvoptometry.org>

Subject: Question

2. for trichiasis treatment, can an optometrist perform electro-epilation of lid lashes if the surgeon is immediately and physically available for consultation?

If the answer is no, does the answer change if a surgeon is immediately and physically available for consultation?

3. for chalazia treatment, can an optometrist inject lidocaine 0.5 to 2% with epinephrine into the eyelid?

If the answer is no, does the answer change if the optometrist is under the direct supervision of an MD or DO who is immediately and physically available for consultation?

4. in the context of chalazia, can an optometrist inject Kenalog into the eyelid?

If the answer is no, does the answer change if the approach is transcutaneous or transconjunctival?

If the answer is no, does the answer change if the optometrist is under the direct supervision of an MD or DO who is immediately and physically available for consultation?

NRS 636.346 Supervision of authorized activities of assistants; conduct of final eye examination of patient.

2. In addition to the provisions of subsection 1, an assistant in any setting where optometry is practiced may perform any of the following activities under the direct supervision of a licensed optometrist:

(e) Use an ophthalmic device . . .

NRS 636.025 Acts constituting practice in optometry; unauthorized acts.

2. The provisions of this section do not authorize an optometrist to engage in any practice which includes:

(a) Any procedure using a laser, scalpel, needle or other instrument in which any human tissue is cut, burned or vaporized by incision, injection, ultrasound, laser, infusion, cryotherapy, radiation or other means;

...

During the course of its Board meeting conducted on June 22, 2023, the Nevada State Board of Optometry (NSBO) authorized its Executive Director to issue a letter regarding your inquiry about the scope of delegation to a staff member within an optometry office performing various tasks.

...

Can a staff member within an optometry office perform eyelid/skin surface treatments like ZEST (aka Zocular® Eyelid System Treatment), Intense Pulsed Light (IPL), Radiofrequency or other aesthetic procedures?

Directing your attention to NRS 636.346 and its subsections in pertinent part: (2)(e) an assistant under the direct supervision of a licensed optometrist may use an ophthalmic device as directed by a licensed optometrist.

Further directing your attention to NRS 636.025(1)(b)-(c) and their respective statutory usages of the word “eye” but also any “appendage” of the eye. The Board classifies the eyelid inclusive of the tarsal plate, meibomian glands, and eyelashes to be appendages and/or adnexa of the eye.

Accordingly, the Board voted unanimously that so long as ordered by the optometrist, an assistant may perform the above modalities referenced in your email so long as the optometrist performs the final examination of the patient at the presentation prior to discharging the patient. Note that the Board’s vote presupposes the scope of the above listed modalities being limited to the eye and appendages and/or adnexa of the eye. The Board does *not* classify, e.g., the facial cheek/buccal, as an appendage and/or adnexa of the eye.

...

Sincerely,

/s/ Adam Schneider

Adam Schneider, Esq.

Executive Director

Nevada State Board of Optometry

Materials for Agenda Item

No. 11

asap post a sign on the door regarding the future practice closure, the projected date of practice closure, what phone number or website portal or email address patients are to contact within 45 days of the notice regarding a copy of their medical records.

such signage not be inconsistent with NAC 629.060. [NAC: CHAPTER 629 - HEALING ARTS GENERALLY \(state.nv.us\)](#);

asap consistent with the above, change the practice's outgoing voicemail message;

asap consistent with the above, a posting on the practice's website;

asap consistent with the above, posting on all social media accounts should the practice have any social media accounts; and

asap consistent with the above, send a "blast" email or text message to all patients so long as the email/text does not expose other patients' email addresses/personal information to each other. (The practice's office manager should be able to provide insight on those mechanics which many practices are able to do in one fell swoop.) If no email address or phone number is listed in the patient chart/profile, then by certified mail to the last known mailing address on file with the practice.

Board policy no.11- Patient Records- "The Board highly recommends that each licensed and practicing Nevada optometrist, and particularly each optometrist who practices alone, creates and executes a written plan for a qualified person or covered entity to secure the optometrist's patient records in the event of his or her sudden or unexpected incapacity or death. An optometrist with a records succession plan may submit a copy of the agreement bearing the optometrist's and the designated party's signatures for inclusion in the licensee's file." [Board Policies - Nevada State Board of Optometry \(nvoptometry.org\)](#)

Note that certain medical records based upon a patient's age or the amount of time such records have been received or in existence are prohibited from being destroyed for statutorily prescribed amounts of time. See NRS 629.051, et seq. [NRS: CHAPTER 629 - HEALING ARTS GENERALLY \(state.nv.us\)](#)

make arrangements for a new custodian of medical records, e.g., a licensed optometrist under NRS 636, if the practice is sold then the oncoming optometrist takes that responsibility. After 45 days of the above-suggested methods for providing notice of the practice closure, it is suggested that notice in the same methods (except for outgoing voicemail should the practice disconnect the phone service) be provided for how patient records may be obtained - even if those records have been turned over to a new custodian. In the alternative, the practice may mail the records directly to the patients by certified mail, following up on any returned mail with a reasonable effort to obtain a forwarding address. See NRS 636.295(13)(b) (grounds for disciplinary action upon violations related to the maintenance, availability, or distribution of any medical record of a patient. [NRS: CHAPTER 636 - OPTOMETRY \(state.nv.us\)](#))

Materials for Agenda Item

No. 12

PROCEEDINGS TO CHANGE NAMES OF NATURAL PERSONS

Persons Other Than Unemancipated Minors

NRS 41.270 Verified petition. Any natural person, except an unemancipated minor, desiring to have his or her name changed may file a verified petition with the clerk of the district court of the district in which the person resides. The petition must be addressed to the court and must state the applicant's present name, the name which the applicant desires to bear in the future, the reason for desiring the change and whether the applicant has been convicted of a felony and include a statement signed under penalty of perjury that the applicant is not changing his or her name for a fraudulent purpose. If the applicant has a criminal record, the petition must be accompanied by a complete set of the applicant's fingerprints taken in the manner prescribed by the Director of the Department of Public Safety.

[1:16:1869; B § 4036; BH § 4944; C § 5001; RL § 5835; NCL § 9457]—(NRS A [1989, 488](#); [2005, 2207](#); [2017, 257, 607, 733](#))

NRS 41.290 Order of court; hearing on objections; disposition and rescission of order.

1. If, within 10 days after the publication of the notice, or if, pursuant to subsection 2 or 3 of [NRS 41.280](#), such publication is not required, within 10 days after filing of the petition, no written objection is filed with the clerk, upon proof of the filing of the petition and publication of notice, if required in [NRS 41.280](#), and upon being satisfied by the statements in the petition, or by other evidence, that good reason exists therefor, the court shall make an order changing the name of the applicant as prayed for in the petition. . . .

Materials for Agenda Item

No. 13

Complainant's desired outcome-

Because the O.D. had a 'Collection Agency' send by USPS a demand for payment, the desired outcome is either the OD is found "guilty of charges" and/or never contacts the patient again.

Basis for allegations/chronology-

10/21/2022- Complainant claims to have received from third-party O.D. an eye glasses prescription. See 11/21/2022 entry.

10/22/2022- subject O.D. performed an eye glasses exam yet the Complainant alleges the presentation was only for contact lenses. Complainant asked O.D. why for eye glasses when I am here for contact lenses. O.D. responded "I was not advised that you are here for a 'contact lens evaluation/prescription only,' which of course was reason for visit since O.D. only partially conducted an initial evaluation of the fit of the lens on the eye of the Complainant, and instead said "we do not need customers like you, leave."

10/27/2022- date of Statement from O.D. by mail with a transaction date of 10/21/2022. The Statement includes two entries with billed amounts: 1) "Ophthalmological Exam w/Refracti" [sic] for \$159.00; and 2) "Design Fit/ Follow up" for \$155.00. Complainant alleges the cost of the visit were never disclosed.

11/16/2022- O.D. claims to have been provided by mail a second invoice for services never disclosed nor performed. (Such Statement not provided in Complainant's submission.)

11/21/2022- same third-party O.D. issues an eye glasses prescription with this date, selecting the option for "Not Approved for Contact Lenses." See 10/21/2022 entry.

Unidentified date- Complainant hand-wrote in all-capital font on the 10/27/2022 Statement- "Owe you nothing as [O.D.] told me 'We don't need a customer like you.' If you bill me again, I'll take you to Court for harassment. Understood [O.D.]!" (underline in original).

Asserted statutory/regulatory violations-

NAC 636.670 (contents of spectacle lenses prescription);
NRS 636.295 (grounds for disciplinary action);
NRS 636.2882 (prescribing controlled substances);
NAC 636.680 (contents of contact lenses prescription);
NAC 636.170(c) (statement of contact lenses' price or discounted price includes required accessories); and
NAC 636.210 (employer responsible for unprofessional conduct)

Law(s) in NRS Chapter 636 or NAC 636, or others, I believe were violated?

1) NAC 636.670 Contents. (NRS 636.125): A prescription for spectacle lenses must 1. specify the refractive power necessary for best vision and contain instructions concerning the times at which the lenses are to be worn. A prescription for polymethylmethacrylate 2. (Hydrophobic) contact lenses must specify the base curve, diameter and refractive power of the lenses. A prescription for rigid gas permeable 3. contact lenses must: "Specify the base curve, diameter and refractive." (a) power of the lenses; Specify the: (b) Brand name and type of lens; or (1) The actual materials desired, with their (2) ability to transmit oxygen; and State whether the prescription is for daily (c) wear or for a stated maximum number of 24-hour periods. A prescription for soft (Hydrophilic) 4. contact lenses must: Specify the base curve or equivalent, diameter (a) and refractive power of the lenses; Specify the: (b) Brand name and type of lens; or (1) The actual materials desired, with their (2) percentage of water content and thickness; and State whether the prescription is for daily (c) wear or for a stated maximum number of 24-hour periods. (Added to NAC by Bd. of Optometry, eff. 6-15-90)—(Substituted in revision for NAC 636.720).

Violation: 10/22/2022, [REDACTED] failed to provide a prescription.

2) NAC 636.230 Compliance with provisions of NAC and NRS relating to optometry. (NRS 636.125, 636.295): For the purposes of NRS 636.295, the Board will consider the failure of a licensee to comply with any provision of NRS or NAC which relates to the practice of optometry to constitute unprofessional conduct. (Added to NAC by Bd. of Optometry, eff. 5-27-92; A 8-4-94).

Violation: 10/22/2022, I went to office of [REDACTED] O.D. only for a prescription for contact lenses. 10/22/2022, [REDACTED] O.D. did not perform requested service. Instead, [REDACTED] O.D. did exam for glasses." 10/22/2022, [REDACTED] O.D. failed to provide a prescription. (Note: Received 10/21/2022 from [REDACTED] O.D. a prescription for eyeglasses, see attached. Optometrist office could not do a "contact lens evaluation" at that time as I need to schedule for another time). 10/22/2022, [REDACTED] O.D. did not perform requested service. [REDACTED] O.D. said "we do not need customers like you, leave." 10/22/2022 [REDACTED] O.D. acted unprofessionally.

3) NAC 636.235 Violation of NRS 636.2882. (NRS 636.125, 636.295). A violation of NRS 636.2882 constitutes unprofessional conduct. (Added to NAC by Bd. of Optometry by R126-99, eff. 12-13-99).

Violation: 10/22/2022 [REDACTED] O.D. failed to provide a prescription. [REDACTED] O.D. said "we do not need customers like you, leave." 10/22/2022 [REDACTED] O.D. acted unprofessionally.

4) NAC 636.680 Contact lenses. (NRS 636.125): Except as otherwise provided in this 1. section, a copy of a prescription for a polymethylmethacrylate (Hydrophobic) contact lens, rigid gas permeable contact lens or soft (Hydrophilic) contact lens issued by an optometrist must be: Provided to the patient, upon an oral or (a) written request from the patient. Released to an authorized agent of the patient, (b) upon a written request from the patient. Verified to an authorized agent of the patient, (c) upon a written request from the patient. An optometrist shall not release a 2. prescription for a polymethylmethacrylate (Hydrophobic) contact lens, rigid gas permeable contact lens or soft (Hydrophilic) contact lens to a patient, until the optometrist has: Conducted an initial evaluation of the fit of (a) the lens on the eye of the patient; Conducted any follow-up examination that the (b) optometrist deems medically necessary;

If sending a check, driver's license must be included on check. There will be a \$20 penalty for returned checks. For all billing questions, call: [REDACTED] Fax: [REDACTED] Website: www.[REDACTED] Due Date: 11/23/2022

IF PAYING BY VISA, MASTERCARD OR DISCOVER, FILL OUT BELOW

<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> DISCOVER
CARD NUMBER	EXP. DATE	AMOUNT
SIGNATURE		MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD

STATEMENT DATE	PAY THIS AMOUNT	ACCOUNT NO.
10/27/2022	\$314.00	[REDACTED]

CHARGES AND CREDITS MADE AFTER STATEMENT DATE WILL APPEAR ON NEXT STATEMENT.

SHOW AMOUNT PAID HERE \$

MAKE CHECKS PAYABLE / REMIT TO: [REDACTED]



111275-1



0001 000549

☐ Please check box if above address is incorrect or insurance information has changed, and indicate change(s) on reverse side.

STATEMENT

PLEASE DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT IN ENCLOSED ENVELOPE

Fee Slip No	Transaction Date	Qty	Description	Fee Amount	Responsible Party Insurance	Patient
Location: [REDACTED]						
138951	10/21/2022	1	Ophthalmological Exam w/ Refracti	\$159.00		\$159.00
	10/21/2022	1	Current Tobacco Non-User			
	10/21/2022	1	Patient Screened for Tobacco Use, Non Tobacco			
	10/21/2022	1	Design Fit / Follow up	\$155.00		\$155.00
<p>OWE YOU NOTHING AS [REDACTED]</p> <p>TOLD ME "WE DON'T NEED A [REDACTED]</p> <p>CUS TO MER LIKE YOU." IF YOU [REDACTED]</p> <p>BILL ME AGAIN, I'LL TAKE YOU [REDACTED]</p> <p>TO COURT FOR HARASSMENT [REDACTED]</p> <p>UNDERSTOOD [REDACTED]</p>						
CURRENT	31-60 DAYS	61-90 DAYS	91-120 DAYS	OVER 120 DAYS	AMOUNT DUE	
314.00	0.00	0.00	0.00	0.00	\$314.00	

For all billing questions, call: [REDACTED]

Fax: [REDACTED]

Office Hours: [REDACTED]

Tues and Thurs: [REDACTED]

Website: www.[REDACTED]

Due Date: 11/23/2022

STATEMENT

SEE REVERSE SIDE FOR IMPORTANT BILLING INFORMATION

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