

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING September 26, 2024

- 1. Action Item 1. Roll Call, Call to Order.** President Mariah Smith, O.D. opened the live meeting at 12:00 p.m., reading into the record pursuant to NRS 241 the remote technology log-in information of Zoom Meeting ID: 851 5417 4008, Passcode: 608001, telephone 1 669 900 6833.
- 2. Welcome, and Introductions.** Deputy Attorney General (DAG) Todd Weiss, Esq., Board members Mariah Smith, O.D., Jeffrey Austin, O.D., Julieta Alamo-Leon, O.D, Sally Balecha, and Executive Director Adam Schneider appeared via Zoom.
- 3. Public Comment.** Dr. Smith invited public comment. No comments provided.
- 4. Public Comment specific to Language Access Plan for NRS 232.0081(4)(a) compliance.** Dr. Smith invited public comment about the proposed Language Access Plan. No comments provided.
- 5. Action Item. Consideration and approval of Language Access Plan.** Director Schneider stated pursuant to AB 266 and NRS 232 all Boards have to supply a Language Access Plan, and he has already obtained approval of the proposed draft from the director of the Governor’s Office for New Americans. All Board members had an opportunity to review the draft. President Smith moved to accept as proposed. Dr. Austin seconded. Motion passed unanimously.
- 6. Action Item. Consideration and approval of Minutes for August 28, 2024 regular Board Meeting.** All Board members had an opportunity to review the draft. Dr. Smith moved to accept as proposed. Public Member Balecha seconded. Motion passed unanimously.
- 7. Action Item. Consideration and approval of Minutes for August 28, 2024 Workshop Minutes.** All Board members had an opportunity to review the draft. Smith moved to accept as proposed. Dr. Alamo seconded. Motion passed unanimously.
- 8. Action Item. Consideration and approval of post-workshop R066-19(12) for submission to Legislative Counsel Bureau.** Director Schneider stated the draft version discussed at the 8/28/2024 workshop contained the phrases “per NRS 636.[xxx],” “non-licensee,” and “optometric practice” which do not exist in NAC 636 or R066-19. Therefore in proposed section

(e), synonyms are used already in NAC 636, R066-19, or internally within the proposed R066-19(12) of “pursuant to,” “any person, business, or entity not licensed to practice optometry,” and “optometry practice.” Director Schneider stated using internally consistent terms within the NAC will help eliminate potential LCB hurdles based upon his legal experience and in dealing with LCB. Dr. Austin moved to accept as proposed. Dr. Smith seconded. Motion passed unanimously.

9. Action Item. Updated licensee renewal application. Director Schneider stated an appreciable minority of licensees were confused by various questions, so the Board was requested to assess each Question for vagueness from the perspective of the average OD and advise of any proposed edits. Director Schneider stated that Questions 24-27 are new requirements as stated in the draft itself, and as mentioned in Agenda Item No. 5’s draft. Dr. Smith asked if there were any areas of concern or what to focus upon, and Director Schneider replied all areas generally. Dr. Austin felt it was clear. Dr. Alamo agreed. Dr. Smith agreed. Public Member Balecha agreed. Dr. Austin moved to accept as proposed. Dr. Smith seconded. Motion passed unanimously.

10. Action Item. Complaint 23-11. Director Schneider presented Complaint 23-11 in a double-blind manner. Director Schneider stated a summary of the case as follows:

Patient legal blind in non-glaucomatous OD eye since childhood secondary to amblyopia/lazy eye.

Patient maintained 20/20 vision and target IOP for most of the licensee’s care, with two instances of IOP spikes treated by the licensee and followed-up by the OMD. The OMD agreed with the licensee’s care in both instances, and did not state any need for STAT surgery. The patient’s VA eventually reduces to 20/25 and IOP was not responding to glaucoma drops as it did in past, so the licensee referred the patient to an OMD who then recommended MIGS.

Patient had concurrent chalazion that the licensee was treating with antibiotic steroid ointment. Patient frustrated that it took so long to get it under control, and was concerned that an ER doctor told him that he should be doing cold, and not hot, compressions, and that he was on the wrong glaucoma medication.

After OMD recommended MIGS, patient got second opinion from OMD at Jules Stein; The patient claims the Jules Stein OMD said that MIGS should have been done much sooner but there is nothing in the Jules Stein records that suggest that.

Patient signed Informed Consents. The outcome of the MIGS was reduced VA to 20/80, which the OMD described as unexplainable.

For the Board’s review is the licensee’s redacted response, a redacted medical records spreadsheet, and the redacted medical records organized into chronological order from November 2017 to July 2024.

Director Schneider stated the overarching question of is there sufficient evidence to authorize the DAG to pursue a complaint for unprofessional conduct, with underlying questions of: 1) what is standard of care to timely consider possible MIGS or trabeculectomy any earlier than what occurred; 2) could the post-op adverse outcome, unexplainable by the operating OMD, have been avoided with earlier consideration for possible surgical intervention, bearing in mind that at no

time does the consulting OMD state that surgery needed to occur STAT.

Dr. Smith commented about standard of care being met, that the outcome is unfortunate but is not the fault of the licensee.

DAG Weiss explained the investigatory process, and that the purpose of the complaint's presentation is akin to the Board making a finding of probable cause to pursue a formal complaint or not.

Dr. Austin stated he reviewed the materials in detail, that the licensee clearly met the standard of care, noted the patient was monitored frequently and visual fields done every six months and would be above the standard of care for glaucoma, that the licensee consulted with an OMD glaucoma specialist for purposes of possible surgery and the OMD glaucoma specialist said there was no need for surgery. The kind of surgery at issue is known to have adverse outcomes, but there is zero reason for the Board to pursue a formal complaint. Dr. Alamo agreed, and that any surgery has risk of a bad outcome, and the licensee met the standard of care.

Dr. Smith moved to close the investigation. Dr. Austin seconded. Motion passed unanimously.

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

| 8/22/2024 - 9/19/2024 | FY2025 cumulative |
|------------------------------|--------------------------|
| New licenses: 0 | 4 |
| Licenses by endorsement: 1 | 3 |
| Glaucoma: 2 | 2 |
| OPAC: 0 | 9 |
| Fictitious Name: 7 | 10 |
| Location changes: 5 | 14 |
| Additional locations: 5 | 27 |
| LOGS: 13 | 24 |
| PRR: 0 | 4 |
| Refunds: 0 | 1 |
| Mobile: 0 | 0 |
| Substitute location: 1 | 2 |
| Public complaints: 0 | 5 |
| 2026-2028 CE review: 1 | 1 |

12. Public Comment. President Smith invited public comment. No public comment received. Dr. Smith reminded the OD Board members to provide updated/telehealth OSLE questions for telehealth updates. Dr. Austin confirmed receipt of Dr. Smith's proposed questions and Dr. Alamo's proposed questions. Director Schneider clarified the next meeting is on October 30, 2024. Public Member Balecha stated she will not be present, and Director Schneider explained so long as the rest of the Board is present a quorum is established and the meeting can proceed in the normal course.

13. Action Item. Dr. Smith moved to adjourn the regular meeting. Dr. Austin seconded. Motion passed unanimously. Meeting adjourned at 12:21 p.m.

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

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FY 2024-2025 Regular meeting schedule

Wednesday 10/30/2024 12:00p.m. (pst) Reg. Bd. Meeting- in-person, phone or Zoom

Wednesday 12/11/2024 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

Thursday 1/23/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

Tuesday 2/18/2025 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 October 30, 2024.

/s/ Adam Schneider

Adam Schneider, Executive Director