

**ADOPTED TEMPORARY REGULATION OF THE
NEVADA STATE BOARD OF OPTOMETRY**

LCB FILE NO. T001-25A

**The following document is an adopted temporary regulation submitted
by the agency on 01/01/2025**

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**Form For Filing
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**Nevada State Board of
Optometry**

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Effective date _____

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Governor's signature

Classification: **ADOPTED BY AGENCY**

Brief description of action: Update to R066-19 section (8)(4) re continuing education passing rates and videoconference approvals

Authority citation other than 233B: NRS 636.125 ("The Board may adopt policies and regulations necessary to carry out the provisions of this chapter.")

Notice date: November 7, 2024

Date of Adoption by Agency: December 11, 2024

Hearing date: December 11, 2024

R066-19 Section (8)(4) adopted temporary revisions

Strikethrough font = approved removal

Bolded font = approved addition

4. Continuing education may be completed in person, over the Internet or by correspondence or videoconference. **As used in this section, "in person" includes synchronous internet or videoconference courses.** For continuing education that is not completed in person, the licensee must submit proof that he or she received a score of at least ~~75~~ **70** percent on the examination for the course.



NEVADA STATE BOARD OF OPTOMETRY

Informational Statement Form re R066-19(8)(4)

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 636.

1. A clear and concise explanation of the need for the adopted regulation.

NRS/NAC 636 govern optometry. R066-19(8), which was already the subject of oversight and Legislative Counsel Bureau (LCB) adoption in 2019-2020, governs how continuing education (herein "CE") hours are credited to licensees for purposes of biennial license renewal requirements. Its subsection 4's modifications will: 1) align Nevada with national standards¹ of 70% minimum passing scores for asynchronous courses; and 2) clarify that "in person" includes synchronous videoconference courses. (Synchronous CE courses, be it a licensee's actual in-person attendance or virtual in-person attendance via a videoconferencing platform, are exempt from the testing requirement offered at the conclusion of a CE course in order for a licensee to receive credit.)

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Prior to the Notice of Workshop being posted, the Board issued a Newsletter to its membership announcing the topic of the workshop, and specifically seeking any membership input on the proposed changes. Any public comment or testimony provided concerning the proposed regulation could have been obtained from the Board of Optometry by mail, telephone request or by email at any time. Interested persons may obtain a summary of responses to the Board's solicitation of comments by contacting the Board office via email at admin@nvoptometry.org.

¹ [COPE+Course+Qualification+Manual+12.2022+FINAL.pdf](#) at page 19 ("Post Course tests must receive a score of at least 70% or better in order for a certificate of completion to be issued.")

Notice of the October 30, 2024 workshop was sent to all registered licensees on the Board's email-mailing list. Agendas associated with the above referenced meetings were posted consistent with NRS 241 timely, and physically and electronically as stated in the Agendas- Nevada State Board of Optometry office, Reno, NV 89523, Nevada State Board of Optometry website: <https://nvoptometry.org>, and Nevada Public Notice website: <http://notice.nv.gov>. The proposed language approved at the Notice of Intent to Take Action on December 11, 2024 is the result of a public meeting, wherein no interested person posited any changes.

After the statutorily requisite amount of time after the posting of a Notice of Intent to Take Action on Regulation, on December 11, 2024 the Board conducted a meeting/hearing and approved R066-19(8)(4).

3. The number of persons who:

(a) Attended each hearing:

October 30, 2024- Notice of Workshop- 11 persons inclusive of three Board members, deputy attorney general, and executive director. No role call conducted or sign-in sheets provided.

December 11, 2024- Notice of Intent to Take Action hearing- 8 persons inclusive of four Board members, deputy attorney general, and executive director. No role call conducted or sign-in sheets provided.

(b) Testified at each hearing:

October 30, 2024- 0 members of the public.

December 11, 2024- 0 members of the public.

(c) Submitted to the agency written comments:

October 30, 2024- 0

December 11, 2024- 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency

October 30, 2024- none

December 11, 2024- none

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Commentary was solicited through the Board's Newsletters to its membership, posting the Notice of Workshop and regular meeting agendas listing proposed changes to NAC 636 as an action item on the Board's website and posting physically and electronically at the Board's office in Reno, NV 89523, and Public Notice website: <http://notice.nv.gov>; all of which expressly solicited public commentary.

Board President Dr. Smith discussed the purpose of the proposed revised regulation that the Board's policy was a 70% passing rate on CE tests to be more in line with national standards, but it has yet to be formally placed into regulation. Dr. Smith commented that the regulation also clarifies what it means to be an in-person CE which would address the need for clarification coming from the membership.

Board Vice President Dr. Austin commented to accept the proposed as-is because it is clear and the Board needs to become consistent with national certifying CE groups which have it as 70%, and this would make it official within the regulation.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

No changes were requested.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

Adverse and beneficial effects on optometry-

The Board does not perceive any adverse economic effects on optometry. The Board does not perceive that CE credits' minimum passing scores for asynchronous courses will have any adverse economic effects, nor does clarifying that in-person attendance for synchronous CE courses can also include in its definition virtual attendance via videoconferencing platform.

Adverse and beneficial effects on the public-

The Board does not perceive any adverse effects on the public given the proposed regulation impacts on optometrists. The intent of R066-19(8)(4) is bring Nevada in conformity with national standards of 70% minimum passing scores for asynchronous courses and to clarify that "in person" includes synchronous videoconference courses, and therefore will not impact the public at large.

(b) Both immediate and long-term effects.

Immediate and long-term effects on optometry-

The minimum passing score stated in R066-19(8)(4) of 75% to the proposed 70% will align Nevada into national conformity on this issue. *See* footnote 1. CE presenters or companies are already in the stream of commerce in Nevada, and the change of a passing score from 75% to 70%. Clarifying that in-person attendance for synchronous CE courses can include virtual

attendance via videoconferencing platform will not impact the practice of optometry.

Immediate and long-term effects on the public-

The Board does not consider the proposed changes in the regulation to have any impact on the public. Instead it is unique to optometrists and obtaining sufficient CE credits in order to be licensed for the then-upcoming biennial cycle. To the extent one is seen, the only impact is on the businesses which offer CE course to ensure for themselves that their courses have nationalized standard passing scores for their asynchronous CE courses (*see* footnote 1); and 2) the participants can obtain credit by attending virtually on a videoconference platform for synchronous online CEs. Therefore the Board does not see this regulation effecting the public.

8. The estimated cost to the agency for enforcement of the adopted regulation.

In and of itself, none as to the agency. Known violations or known alleged violations of the regulation for providing false attestations of CE attendance or completion, however, will result in an investigation as authorized under NRS 636, and possible prosecution and discipline upon the alleged violator. Attorneys' fees and costs via the Board's assigned deputy attorney general may be incurred upon the Board for such prosecution.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

N/A. None of the regulation overlaps with any other state, local, or federal agency/regulation. No other chapter governs optometrists or the practice of optometry besides NRS 636/NAC 636.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

N/A. None of the proposed regulation changes duplicates or is more stringent than any federal, state, or local standards regulating optometry to the best of the Board's knowledge.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

N/A. The proposed regulation does not impose any fees.