

STATE OF NEVADA

JOE LOMBARDO
Governor



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ADAM SCHNEIDER
Executive Director

DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF NEVADA BOARDS, COMMISSIONS AND COUNCILS STANDARDS
NEVADA STATE BOARD OF OPTOMETRY

MINUTES
OF PUBLIC MEETING
December 10, 2025

- 1. Call to Order.** Director Schneider opened the live meeting at 12:05p.m.
- 2. Roll Call and statement of purpose to protect public health and safety and the general welfare of the people of this State.** Board members Sally Balecha, Mariah Smith, O.D., Jeffrey Austin, O.D., Dan Lyons, O.D., and Julie Alamo-Leon, O.D. were present via Zoom. Quorum established. Executive Director Schneider present at Nevada Business Center Tahoe Room 3300 W. Sahara Ave., 4th Floor Las Vegas, Nevada 89102.¹
- 3. Public Comment.** Director Schneider invited public comment with a reminder that no action will be taken at this meeting on any issues presented as public comment and the maximum time is three minutes. No public comment received.
- 4. Action Item. Consideration and approval of October 30, 2025 Board Meeting Minutes for: 1) Regular Meeting; 2) Notice of Intent to Take Action on Regulation re R049-25.** Director Schneider confirmed all present Board members had an opportunity to review the drafts, and stated that page 5 of the 86 page meeting materials packet of the regular meeting's draft Minutes regarding the summary of the Complaint 26-03 discussion would be changed to reflect Retina 1 and Retina 2 and not Anterior Seg and Anterior Seg 2. Noting Director Schneider's future changes, Dr. Smith moved to accept all proposed Minutes. Public Member Balecha seconded. Motion passed unanimously.
- 5. Action Item. Consideration and approval of FY2024-2025 Audit.** Director Schneider informed the Board that this audit, which the Board paid Casey Neilson to do so, has different numbers than the prior audit due to the differences in renewal years versus non-renewal years and the Board in non-renewal years lives off of the capital obtained during renewal years. Director Schneider stated he has been in touch the auditor on the Board's status relative to past years, and summarized that investment revenue is up, operational costs are down, and for the first time in many cycles the Board has no material deficiencies needing to be reported to LCB's audit division although the Board's accounting services need to be contacted about calculations of deferred compensations. The Board's approval for increased accounting services has worked,

¹ This occurred immediately after the conclusion of the Board's Notice of Intent to Take Action on Regulation R056-25 on the same day, whose Zoom information and physical location are identical.

and has provided the Board with more accurate fiscal information than in years prior to 2023. Director Schneider stated if no further discussion, then a motion is needed so the audit can be supplied to LCB's audit division. Dr Smith moved to accept. Dr. Alamo seconded. Motion passed unanimously.

6. Action Item. Complaint 26-03 with supplemental information. Director Schneider reminded the Board this is a continuation from the 10/2025 Agenda, that Dr. Lyons has recused, directed the Board to the 10/2025 Minutes for the summary which the Board had just approved, that as to Licensee 1's supplemental statement Licensee 1 advised that Tropicamide 1% was used for the mydriatic drop. Director Schneider asked the Board what it wants to do, be it involving the Attorney General for potential prosecution based upon their own evaluation for possible formal charging document/Complaint, or an administrative fine or otherwise.

Dr. Smith commented this would not fall into the administrative fine category, and that this should be referred to the DAG for further investigation. Dr. Austin agreed. The patient had a poor outcome although where it is difficult to say right now is if the optometrist is responsible for that and that further investigation is justified.

Director Schneider inquired into what else the Board wanted to investigate in light of the information already obtained, and that the question before the Board is does the Board want to refer this to the DAG. Dr. Smith commented the Licensee admitted to no VAs or IOPs which would not be the standard of care, so no further investigation is needed in that sense. Director Schneider answered Dr. Smith's question on next steps, and the process for how the DAG assesses a case and chooses to create a charging document or not and for what causes of action based upon his review of the evidence. Director Schneider speculated the causes of action based upon the Board's provided analysis could include one for clinical conduct and one for documentation but he could not guarantee anything for how the DAG assesses the evidence for any specific cause of action or any causes of action at all. The DAG would then advise the Board of negotiations with the Licensee and potential settlement, or alternatively a full administrative trial. Director Schneider reminded the Board that should this matter reach the disciplinary or sentencing phase, the Board just voted to approve R056-25 inclusive of disciplinary factors and mitigating factors. Dr. Alamo agreed to refer.

Dr. Smith moved to refer this matter to the DAG for evaluation and potential prosecution. Dr. Austin seconded. Motion passed 4-0.

Director Schneider answered Dr. Austin's question about inquiring into the two retina surgeons and summarized his efforts to obtain information including phone calls and emails, but that his jurisdiction is limited upon non-licensees. Retina OMD 1 has not replied. Retina OMD 2 is on family medical leave. Director Schneider will continue to seek that information to pass along to the DAG.

7. Action Item. Complaint 26-09. Director Schneider stated this complaint is about Licensee 1 diagnosing cataracts but Licensee 2 not diagnosing cataracts and the patient believing that Licensee 1 made a misdiagnosis. Director Schneider provided a clinical summary as follows- Patient, age 60, is examined by Licensee 1 and diagnosed with mild cataracts, correctable to 20/20 OD OS OU and provided a spectacle Rx. A year later, Patient goes to Licensee 2 who does not diagnose cataracts. Presenting distance VAs cc 20/20 OD OS OU, near 20/25. Patient gets new spectacle Rx and (per patient) was told presenting Rx was too strong. Patient has accused Licensee 1 of: 1) misdiagnosis of cataracts; and therefore 2) incorrect glasses prescription.

Dr. Smith noted no professional misconduct in her opinion, that no harm was created, and that Licensee 1 was gracious to offer a re-do. Dr. Lyons commented that Licensee 1 did everything the right way. Dr. Alamo noted no vision changes, the diagnosis of mild cataracts or not depends on the doctor, and no reason to believe that Licensee 1 misdiagnosed the patient. Dr. Austin agreed and that very likely a patient of this age had cataracts but that maybe it was not visually significant cataract, and that no harm occurred upon the patient. Dr. Smith commented there is a level of subjectivity when it comes cataracts diagnoses. Dr. Austin agreed. Director Schneider inquired into medical literature and Dr. Austin responded that patients of that age start to develop cataracts at ages 40-50, but Dr. Smith felt it to be irrelevant for the patient's allegations or the Board's disposition for this matter.

Dr. Smith moved to close the investigation with no further action. Dr. Austin seconded. Motion passed unanimously.

8. Action Item. Licensee inquiry re FDA-approved Epioxa. Director Schneider stated this item comes from a licensee who wants to know if this is within a Nevada optometrist's scope. Director Schneider directed the Board to the materials including some online research from the Optometry Times and a survey of what States are doing on it even if those States' laws are not similar to Nevada's. Director Schneider reminded the Board about its past rulings on RF and IPL rulings going from tragus to tragus.

Dr. Smith commented there is nothing in the laws to prohibit this usage but like anything else the optometrist must have competency in the treatment to use it. Dr. Alamo agreed. Dr. Lyons agreed. Dr. Austin commented the statutes would have to be amended every six months if the Board is to list out every time new treatments become FDA approved and found to be in a Nevada optometrist's scope. Dr. Austin commented about the company Glaukos that it got keratoconus to be changed to a rare disease and thus the drug has been classified as an orphan drug with prices going from \$400 to \$600 to \$800 to \$2500 to \$50,000 per eye, and there are talks for \$75,000 per eye. Dr. Lyons agreed that was his understanding as well.

Dr. Smith moved for Director Schneider to advise the licensee about the Board's position that it would be within the scope but the licensee must have the proper training in it in order to use it. Dr. Alamo seconded. Motion passed unanimously.

9. Action Item. NRS 636.347(2) (permit required for professional association with health maintenance organization) Director Schneider stated this item was anticipatory when he noticed the statute says the licensee is to submit a form approved by the Board but the Board does not have a form, and asked the Board for its working knowledge on HMOs and things that the licensee needs to tell the Board before the licensee goes to work for the HMO. Dr. Austin commented this statute likely arose to ensure for the Board that the licensee was not working for a medical group that was not an HMO entity, and an affidavit should be created for that effect. Dr. Smith qualified that this information does not necessarily need to be on the form, but something that could be asked is that the optometrist owns the records should an issue come up and the licensee being able to respond to a records request. Colloquy on if such a question was proper upon HMOs when they are the employer of the hypothetical licensee, which segues back to prior meetings and discussions of lack of jurisdiction over non-licensees and loop holes. Dr. Alamo inquired into what the licensee's affidavit should include. Dr. Austin answered that this statute likely dated back to when Judi Kennedy was the executive director and the intent was to distinguish between non-HMO entities still not being able to employ licensees. Dr. Smith asked if the burden for the form is on the licensee, which Drs. Austin and Alamo agreed.

Colloquy on the HMO's NPI number and locations to be included in the form, and potential other information specific to the HMO proving it is a bona fide HMO. Dr. Smith suggested adding who would the records requests be sent to as a way for the Board to obtain such records. Dr. Alamo inquired what other States' laws allow in terms of HMO employment, which Director Schneider responded he could inquire into ARBO. Dr. Alamo commented this would be in the best interests of public safety for the Board to ensure that it can access patient records.

Dr. Smith moved for Director Schneider to create the form consistent with the Board's discussion and to inquire into other State Boards for possible incorporation into the Board's form. Dr. Alamo seconded. Motion passed unanimously.

10. Action Item. R101-24(5) (optometric telemedicine licensee requirements) versus NRS 636.346 (supervision of authorized activities of assistants; conduct of final eye examination of patient). Director Schneider noted this is a telemedicine business plan question, and how much is allowed for the optometric assistant in the performance of telemedicine when evaluating the statute with the regulation in conjunction. Director Schneider stated as is customary for telehealth inquiries, the Board has to review these questions from the perspective of the good faith OD who is trying to use telehealth legally versus the bad actor OD or corporation trying to find loop holes to the law, and commended the law firm for seeking permission up front versus forgiveness post hac. Director Schneider noted the meeting materials include the Board's discussion from 1/2024 which led to the creation of R101-24(5).

Dr. Smith commented that the Board always tries to anticipate all questions in the future, and the Board engaged in hours of meetings on the topic, and knows what the intent was at that time nearly two years ago and the business plan would not be permissible. Another permissible way was the licensee's partner could perform a non-comprehensive exam if they had the records in hand contemporaneously. The 2019 discussions would not have contemplated synchronous telemedicine because it was not available at the time, but there was discussion as to what it means to provide "direct supervision."

Dr. Austin agreed with the summary, and stated "direct supervision" is unfortunately nebulous, e.g., is it in-person direct supervision or the supervising person directing that activity. The Board had decided that in the Board's context the licensee did not need to be in-person so long as the licensee directed the activity. A new patient is not eligible for comprehensive examination via telemedicine, and instead there must be past optometric records and information from the past two years.

Director Schneider posed a question can another licensee perform telemedicine on a new patient to the licensee if the licensee had the patient's records from an unaffiliated licensee, e.g., six months prior, or is the statute limited to the licensee who performs the in-person examination and then only himself or herself can avail themselves to telehealth upon the same patient within the past two years. Dr. Smith answered that the intent was both the original licensee and the partner of the licensee who would have access to their own practice's records. But a bad player would classify a partner as having thousands of partners because they independently contract for a large corporation, which would not be the Board's intent. Director Schneider noted R101-24(5) by itself is clear that the licensee has to perform the manifest refraction. But the issue from the business plan being proposed is how does the supervision statute interconnect when the optometric assistant is allowed to do any number of things so long as the licensee performs or conducts the final examination before the patient is discharged. Dr. Smith noted the language is "performs" as opposed to "reviews or approves." The refraction could not be performed solely by the optometric assistant.

Director Schneider inquired of Dr. Lyons' experience, and who commented about encountering issues with 1-800-Contacts, and that the statute NRS 636.394(2) saying "the" licensee and not "a" licensee performing the comprehensive examination and that even the licensee's partner would not be eligible to perform a comprehensive exam unless it was a non-comprehensive exam. Dr. Austing agreed about .394(2) stating "the licensee," and it was the intent of the Board that "the licensee" has to personally lay hands on the phoropter and perform the final refraction. Dr. Lyons noted the law firm's proposal chose to use the word "a" which is very different from "the." Dr. Alamo agreed with Director Schneider's proposal to create a draft for the Board's approval at the 1/2026 meeting consistent with the Board's discussion.

Dr. Smith moved for Director Schneider to create a letter for the Board's approval at the 1/2026 meeting consistent with the Board's discussion. Dr. Lyons seconded. Motion passed unanimously.

11. Action Item. Insurance panels statuses for 2028-2030 renewal applications. Director Schneider noted that other Boards ask of their licensees if they have been involuntarily removed from any health insurance panels and this Board does not, but does the Board want to add this question for the next renewal cycle application.

Dr. Smith stated it should be asked, regardless if it overlaps. Drs. Lyons and Austin inquired into the questions' purpose when Drs. Lyons and Alamo noted that an insurance company can drop a licensee for any reason. Dr. Smith noted a past incident where a licensee had to pay back hundreds of thousands of dollars to VSP due to fraudulent billing and yet that licensee had no Board penalty. Dr. Alamo discussed her experience and understanding with Culinary of providers being dropped with no reflection on the providers' performance, and a possible question could be whether the licensee violated the insurance contract via patient care and dropped as a panel provider since the prior renewal submission. This item will be tabled to the next session where Director Schneider will pose proposed questions on the topic for the 2028-2030 renewal application.

12. Executive Director update re ARBO End-of-Year webinar. Director Schneider attended ARBO's end of year webinar and summarized the same as follows:

OE Tracker usage and simplicity, Montana and West Virginia have lasers in their scope now, Minnesota can now perform minor eyelid procedures. The recent theme is that rural States tend to have scope expansion in the interests of lack of access to healthcare compared to more populous States;

national telehealth issues like the need for informed consent for a remote exam upon making the appointment, some States require initial in-person examinations before eligible for telehealth, some require the assistants to be AOA or JCAHPO certified, some require the licensee to have a physical in-state location;

Board lawsuits where the licensee works for the OMD and thus the State's OD laws allegedly don't apply;

Stanton Optical and My Eyelab lawsuits regarding improper licensure and compliance and fraudulent billing codes for exams not actually performed;

West Virginia OMDs sued the West Virginia OD Board for deviations on the rule making process and even though it was moot based upon their scope expansion the OMDs still pursued the lawsuit; and

13. Executive Director update re Complaint 24-12. Director Schneider reminded the Board about the facts and circumstances of Complaint 24-12 and that Board referred the matter to the Board of Medical Examiners (BME) and that if the BME found wrongdoing the Board would re-open this matter. Director Schneider confirmed with the BME that it received this Board's referral and that the BME closed their investigation upon the OMD without any further action. Thus 24-12 will remain closed per the Board's prior vote.

14. Executive Director update re Attorney General fees increase and workers compensation increase. Director Schneider made the Board aware of two increases:

DAG fees have increased to \$250/hour from approximately \$150/hour or even less; and

The State has mandated Boards obtain workers compensation through the State per NRS 331, regardless if Boards can obtain better rates through the private sector. Thus the Board's rate will increase from approximately \$550 to \$1300. Dr. Alamo as treasurer is aware.

15. Executive Director update re license renewals. Director Schneider apprised the Board of the renewal status and that approximately 60 renewals have occurred thus far constituting approximately 10% of anticipated license renewals to be received.

16. Action Item. Proposed items for future Board meetings. Director Schneider asked about any 1/2026 items. None proposed.

17. Public Comment. Director Schneider invited public comment. No public comments received.

18. Action Item. Adjournment. President Smith moved to adjourn. Dr. Alamo seconded. Motion passed unanimously. Adjournment occurred at 1:15p.m.

9 persons attended virtually, inclusive of five Board members. 1 person attended in-person, inclusive of the Executive Director. No role call conducted or sign-in sheets provided.

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FY 2025-2026 Regular meeting schedule

Wednesday 12/10/2025 12:00p.m. (pst) Reg. Bd. Meeting- phone, Zoom, in-person
Thursday 1/22/2026 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 3/12/2026 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 4/23/2026 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 5/28/2026 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom
Thursday 6/25/2026 12:00p.m. (pst) Reg. Bd. Meeting- phone or Zoom

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These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on January 22, 2026.

/s/ Adam Schneider
Adam Schneider
Executive Director