

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

LCB File No. R056-25

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted.

AUTHORITY:§ 1, NRS 636.125, § 2, NRS 636.125 and section 3 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 601; § 3, NRS 636.125, 636.290 and 636.325; § 4, NRS 636.125 and 636.2893, as amended by section 10 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 604; § 5, NRS 636.125 and 636.287, as amended by section 9 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 603.

A REGULATION relating to optometry; adopting provisions governing the summary suspension of a license to practice optometry under certain circumstances; establishing factors that the Nevada State Board of Optometry will consider in determining disciplinary action or sanctions; revising the requirements for an optometrist to receive a certificate to treat persons diagnosed with glaucoma; revising the requirements for an optometrist to receive a certificate to administer and prescribe certain pharmaceutical agents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the practice of optometry, including, without limitation, the licensing of optometrists by the Nevada State Board of Optometry. (Chapter 636 of NRS) Under existing law, after an investigation, the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member of the Board who conducted the investigation is authorized to summarily suspend a license to practice optometry upon a determination that the health, safety or welfare of the public or any patient served by a licensee is at risk of imminent or continued harm because of the manner in which the licensee practices optometry. If such an order of summary suspension is issued, the Board is required to hold a hearing within 60 days after the date on which the order to summarily suspend the license is issued, or within a longer period agreed to by the Board and the licensee, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of a hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board by the date on which such a hearing is required to be held, the Board must reinstate the license of the licensee. (Section 3 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 601) **Section 2** of this regulation establishes that the grounds for the summary suspension of a license to practice optometry exist if: (1) the licensee has violated a provision of existing law or regulations governing the practice of optometry; (2) the summary suspension is necessary to prevent further violations of such laws or regulations; and (3) the public health, safety or welfare imperatively requires the summary

suspension of the license. **Section 2** additionally requires the order of summary suspension to set forth the grounds for the issuance of the order, including a statement of facts, and establishes the period for which the order is effective.

Existing law establishes the types of disciplinary action that the Board is authorized to impose against a licensee when there are grounds for the Board to take disciplinary action against the licensee, including, without limitation, imposing an administrative fine, issuing a letter of public reprimand, issuing an order to cease and desist, placing the licensee on probation or suspending or revoking the license of the licensee. (NRS 636.290, 636.325, 636.420, as amended by section 16 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 606) **Section 3** of this regulation establishes the criteria that the Board will consider in determining the disciplinary action to take against a licensee. Under **section 3**, in determining such disciplinary action, the Board will consider certain factors to determine a baseline or presumptive penalty, then consider mitigating and aggravating factors set forth in **section 3**.

Existing law requires the Board to adopt regulations that prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma. Before the enactment of Assembly Bill No. 183 (A.B. 183) of the 2025 Legislative Session, among other requirements, an optometrist who applied for such a certificate was required to provide proof that the optometrist had treated at least 15 persons who were diagnosed with glaucoma by an ophthalmologist licensed in this State. A.B. 183 authorized an optometrist to satisfy this requirement by treating 15 persons diagnosed with glaucoma by an ophthalmologist licensed in this State, any other state or territory of the United States or the District of Columbia. (NRS 636.2893, as amended by section 10 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 604) **Section 4** of this regulation authorizes an optometrist to satisfy the requirement to submit to the Board a statement concerning the treatment of persons diagnosed with glaucoma to include that the optometrist treated a person in consultation with an ophthalmologist licensed in this State, any other state or territory of the United States or the District of Columbia. **Section 4** also revises the requirement for an optometrist who is seeking to obtain a certificate to treat persons with glaucoma to submit a form to the Board containing certain information by authorizing the optometrist to submit an unsworn declaration attesting under penalty of perjury to the accuracy of certain information in the form rather than having the form signed by a notary public. (NAC 636.280)

Existing law requires the Board to adopt regulations which outline the requirements for certification to administer and prescribe certain pharmaceutical agents and sets forth certain requirements for inclusion in those regulations. A.B. 183 eliminated the requirement that an applicant for such a certification successfully complete 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. (NRS 636.287, as amended by section 9 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 603) **Section 5** of this regulation eliminates the requirement for an applicant to submit a form to establish compliance with this requirement. (NAC 636.730)

Section 1. Chapter 636 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. The Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct an investigation or the member of the Board who conducted an investigation may issue an order to summarily suspend the license of a licensee pursuant to section 3 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 601, if, after an investigation, the Board, the President of the Board, the presiding officer of the investigative committee or the member of the Board determines that:

- (a) The licensee has violated a provision of this chapter or chapter 636 of NRS;**
- (b) The summary suspension of the license is necessary to prevent a further violation of this chapter or chapter 636 of NRS; and**
- (c) The public health, safety or welfare imperatively requires the summary suspension of the license.**

2. An order summarily suspending a license:

- (a) Must:**
 - (1) Comply with the applicable provisions of NRS 233B.127; and**
 - (2) Set forth the grounds upon which the order is issued, including a statement of facts;**
- (b) Is effective upon service on the licensee or the licensee's attorney of record of the order and complaint; and**
- (c) Remains in effect until the Board:**
 - (1) Modifies or rescinds the order;**
 - (2) Issues its final order or decision on the underlying complaint; or**
 - (3) Is required to reinstate the license of the licensee pursuant to section 3 of Assembly Bill No. 183, chapter 111, Statutes of Nevada 2025, at page 601.**

3. Upon service on the licensee or the licensee's attorney of record of an order summarily suspending the license of the licensee, the provisions of subsection 3 of NRS 636.375 apply to any further notices related to that suspension.

Sec. 3. 1. In imposing disciplinary action or sanctions, the Board will consider the following factors:

- (a) Whether the licensee has violated a duty owed to a patient, to the public or to the profession;*
- (b) Whether the licensee acted intentionally, knowingly or negligently;*
- (c) The amount of the actual or potential injury caused by the misconduct of the licensee; and*
- (d) The existence of any aggravating or mitigating factors.*

2. Using the factors set forth in paragraphs (a), (b) and (c) of subsection 1, the Board will determine a baseline or presumptive sanction. The Board may then consider any aggravating or mitigating factors to increase or decrease the sanction.

3. Aggravating circumstances are any considerations or factors that may justify an increase in the degree of discipline to be imposed. The following list of examples is illustrative and is not exclusive:

- (a) Previous disciplinary offenses;*
- (b) Dishonest or selfish motive;*
- (c) A pattern of misconduct;*
- (d) Multiple offenses;*
- (e) Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders;*

(f) *Submission of false evidence, false statements or other deceptive practices during the disciplinary hearing;*

(g) *Refusal to acknowledge the wrongful nature of the conduct;*

(h) *Vulnerability of the victim;*

(i) *Substantial experience in the practice of optometry;*

(j) *Indifference to making restitution; and*

(k) *Illegal conduct, including conduct that involves the use of controlled substances.*

4. *Mitigating circumstances are any considerations or factors that may justify a reduction in the degree of discipline to be imposed. The following list of examples is illustrative and is not exclusive:*

(a) *Absence of a previous disciplinary record;*

(b) *Absence of a dishonest or selfish motive;*

(c) *Personal or emotional problems;*

(d) *Timely and good faith effort to make restitution or to rectify the consequences of the misconduct;*

(e) *Full and free disclosure to the disciplinary authority or a cooperative attitude toward proceeding;*

(f) *Inexperience in the practice of optometry;*

(g) *Character or reputation;*

(h) *The licensee is a person with a physical disability;*

(i) *The licensee is a person with a mental illness or with an alcohol or other substance use disorder when:*

(1) There is medical evidence that the licensee is a person with a mental illness or with an alcohol or other substance use disorder;

(2) The mental illness or alcohol or other substance use disorder caused the misconduct;

(3) The recovery of the licensee from the condition creating the mental illness or from the alcohol or other substance use disorder is demonstrated by a meaningful and sustained period of successful rehabilitation; and

(4) The recovery arrested the misconduct and recurrence of that misconduct is unlikely;

(j) Delay in disciplinary proceedings;

(k) Interim rehabilitation;

(l) Imposition of other penalties or sanctions;

(m) Remorse; and

(n) Remoteness of previous offenses.

5. Factors that should not be considered as either aggravating or mitigating include, without limitation:

(a) *Forced or compelled restitution;*

(b) Agreeing to the demand of a patient for improper behavior;

(c) Withdrawal of a public complaint against the licensee;

(d) Resignation before the completion of disciplinary proceedings;

(e) Any recommendation by the complainant or aggrieved patient as to sanction; and

(f) The failure of a complainant or an aggrieved patient to complain.

Sec. 4. NAC 636.280 is hereby amended to read as follows:

636.280 To receive a certificate to treat persons diagnosed with glaucoma pursuant to NRS

636.2895, an optometrist:

1. Must be licensed and in good standing to practice optometry in the State of Nevada.

2. Must possess a valid certificate to administer and prescribe pharmaceutical agents issued pursuant to NRS 636.288.

3. Must have successfully passed the Treatment and Management of Ocular Disease

Examination administered by the National Board of Examiners in Optometry or its successor organization.

4. Shall submit proof on a written form provided by the Executive Director of the Board that the optometrist has treated at least 15 persons described in subsection 3 of NRS 636.2893. The form must include:

(a) The name, address and license number of the optometrist;

(b) An identifier for each patient treated, the date on which the treatment for each patient began and a description of the treatment plan which, for each patient, must be not less than 1 year in length beginning not earlier than October 1, 1999;

(c) A statement that the optometrist has, in consultation with an ophthalmologist licensed in the State of Nevada, *the District of Columbia or any other state or territory of the United States*, treated the patients in accordance with the provisions of this chapter and chapter 636 of NRS;

(d) A statement that the consulting ophthalmologist has diagnosed the patients with glaucoma or confirmed a diagnosis of glaucoma by the optometrist; and

(e) The signatures of the optometrist, the consulting ophthalmologist and, *except as otherwise provided in this paragraph*, a notary public attesting to the accuracy of the

information. *An optometrist may submit with the form an unsworn declaration in accordance with NRS 53.045 to declare under penalty of perjury that the information is accurate in lieu of the signature on the form of a notary public attesting to the accuracy of the information.*

Sec. 5. NAC 636.730 is hereby amended to read as follows:

636.730 1. The Board shall provide a certificate to administer and prescribe 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, or its successor organization. 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 pharmaceutical agents which was:~~

~~— (1) Conducted by an ophthalmologist who is licensed and in good standing in any state, territory or possession of the United States; and~~

~~— (2) Comprehensive in nature and covered the use of all classes of pharmaceutical agents which may be administered or prescribed pursuant to chapter 636 of NRS.]~~

2. ~~[Upon completion by an optometrist of a training program which meets the requirements of paragraph (e) of subsection 1, the ophthalmologist who conducted the program shall, on a form provided by the Executive Director of the Board, certify under penalty of perjury that the optometrist named on the form satisfactorily completed the training program.]~~ On a separate form provided by the Executive Director, 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 pharmaceutical agents. ~~[The certifying signatures of the ophthalmologist and optometrist must be notarized.]~~

— 3. ~~The forms provided by the Executive Director of the Board pursuant to subsection 2 must:~~

- (a) ~~Set forth the requirements for the training program described in this section;~~
- (b) ~~Contain the certifications for the ophthalmologist or optometrist, as applicable, which are required by this section; and~~
- (c) ~~Provide space and appropriate designations for the notarization of the signatures of the ophthalmologist or optometrist, as applicable.]~~