

Small Business Impact Statement re R066-19 Section (8)(4)

Background

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. R066-19 has yet to be codified, so the Board seeks additional clarification on this topic for its membership and all interested persons with the subject modifications to: 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 an internet platform such as Zoom or Teams or similar videoconferencing, are exempt from the testing requirement offered at the conclusion of a CE course in order for a licensee to receive credit.

Description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary (NRS 233B.0609(1)(a))

Prior to the Notice of Workshop being posted, the Board issued a Newsletter to its membership announcing the topic of the workshop, and specially seeking any membership input on the proposed changes.

The Agenda associated with the above referenced meetings is 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>

Any public comment or testimony provided concerning the proposed regulations 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.

Manner in which the analysis was conducted (NRS 233B.0609(1)(b))

See above. The Board sought from its stakeholders any comments, wherein any impact on small business could have been commented upon. No comments were received in response to its Newsletter announcing the workshop.

Estimated economic effect of the proposed regulation on the small business which it is to regulate, including, without limitation both adverse and beneficial effects and both direct

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.”)

and indirect effects. (NRS 233B.0609(1)(c)(1)-(2))

Adverse and beneficial economic effects- none. 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.

Immediate and long-term effects- although not formally codified by LCB yet, R066-19 became law in 2020. Therefore the Board has a small sample size to address this topic. The minimum passing score stated in R066-19(12)(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% will not affect small business. Clarifying that in-person attendance for synchronous CE courses can include virtual attendance via videoconferencing platform will likewise not affect small business.

Description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. (NRS 233B.0609(1)(d))

R066-19(8)(4) does not impact small business. Instead it is unique to optometrists and obtaining sufficient CE credits in order to be licensed for the then-upcoming biennial cycle. As summarized above, none of the above “impose a direct and significant economic burden” or “directly restrict the formation, operation or expansion of a small business” (*see* NRS 233B.0608). To the extent one is seen, the only inhibition is not on the operation of a small business in and of the industry itself, but instead ensures for the protection of the profession and the public that licensees in Nevada: 1) have nationalized standard passing scores for their asynchronous CE courses (*see* footnote 1); and 2) can obtain credit by attending virtually on a videoconference platform for synchronous online CEs.

Estimated cost to the agency for enforcement of the proposed regulation (NRS 233B.0609(1)(e))

The Board estimates that the adopted regulation will result in no additional costs. The Board's employees already count CE credits as approved when received from a qualified CE presenter on qualified topics. Whether a licensee attends a synchronous CE course physically in-person or virtually in-person does not result in any additional costs to the Board. Whether the passing score is 75% or 70% does not change how the Board's employees vet any proffered CE credit from any licensee. There is no perceived cost to the licensees governed under NRS 636. There is no perceived cost to the public.

If the proposed 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 (NRS 233B.0609(1)(f))

N/A.

If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary. (NRS 233B.0609(1)(g))

N/A. Nevada's minimum passing score (75%) to obtain credit for attending asynchronous CE courses is presently higher than national standards (70%). (See footnote 1.) 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.

The reasons for the conclusions of the agency regarding the impact of a regulation on small business (NRS 233B.0609(1)(h))

R066-19(8)(4) is already effective law upon Nevada-licensed optometrists. A plain reading of R066-19(8)(4)'s text and the proposed revisions demonstrates it is not a mandate or a restriction on how licensees practice optometry, which is a core focus of NRS/NAC 636 in addition to maintaining integrity of the profession and protecting the public. Instead it requires a licensee, in the event of the licensee electing to complete an asynchronous CE course, to obtain a passing score consistent with national standards of 70%. It is at any given licensee's discretion to choose to avail himself or herself to any such asynchronous CE courses, when synchronous CE courses are available to attend physically in-person or virtually in-person and do not require course examination passing score in order to receive credit.

I, Adam Schneider, Esq., Executive Director of the Nevada State Board of Optometry, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business, and that the information contained in the statement above is accurate. (NRS 233B.0609(2))

Dated: 10/14/2024

/s/ Adam Schneider
Adam Schneider, Esq.
Executive Director
Nevada State Board of Optometry