

NEVADA STATE BOARD OF OPTOMETRY



PUBLIC NOTICE OF WORKSHOP

Pursuant to NRS 233B.0601, NOTICE IS HEREBY GIVEN that the Nevada State Board of Optometry will hold a public workshop on Wednesday January 24, 2024 9a.m. to consider amendments to Nevada Administrative Code (NAC) 636.

Pursuant to NRS 241.023(1)(c), the workshop is being conducted by means of remote technology. The public may attend via live stream remotely, or telephonically, or at the following location:

<https://us06web.zoom.us/j/89583783729?pwd=gZxouqpCYawcicDSc0gAP1tQORX82n.1>

Meeting ID: 895 8378 3729

Passcode: 130906

Telephone (669) 444-9171 or (669) 900-6833

Nevada State Business Center
3300 W. Sahara Ave., Red Rock Room, 4th Floor, Suite 440
Las Vegas, NV. 89102

Before, during, or after the workshop no later than March 1, 2024, written comments will be accepted by email to director@nvoptometry.org or alternatively to Nevada State Board of Optometry, PO Box 1824, Carson City, NV 89702.

All registrants and interested parties are encouraged to participate in the regulatory review process. The Board's solicitation of comments on proposed regulations occurred during a public proceeding on October 26, 2023, and in advance of said proceeding, notice of same was sent to all registered licensees on the Board's email-mailing list.

WORKSHOP AGENDA

Pursuant to NRS 233B.061(2), Notice of Proposed Regulation Workshop for possible action:

Amendments to NAC 636 (presently enrolled as R66-19 (2019)) in light of amendments to NRS 636 (presently enrolled as AB 432 (2023)).

❖ The Board is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada State Board of Optometry, in writing at P.O. Box 1824, Carson City, Nevada 89702; via email at admin@nvoptometry.org or call 775-883-8367 as far in advance as possible.

❖ To request an advance copy of the supporting materials, contact admin@nvoptometry.org or call 775-883-8367.

This Notice has been posted at the following locations:

- Nevada State Board of Optometry website: <https://nvoptometry.org/>
- Nevada Public Notice website: <http://notice.nv.gov>

CHAPTER.....

AN ACT relating to optometry; requiring a licensee to provide certain notifications to the Nevada State Board of Optometry; authorizing persons enrolled in certain educational or residency programs to practice optometry under certain circumstances; prohibiting a licensee from prescribing ophthalmic lenses under certain circumstances; establishing certain requirements relating to the use of optometric telemedicine; reducing the fee for a veteran to obtain an initial license to practice optometry; revising certain requirements to obtain a license; revising provisions relating to the ownership of an optometry practice under an assumed or fictitious name under certain circumstances; authorizing the Board to issue citations for certain violations; requiring certain regulations adopted by the State Board of Health to authorize a licensed optometrist to serve as the director of a medical laboratory under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada State Board of Optometry to adopt policies and regulations necessary to regulate the practice of optometry in this State and issue licenses to engage in the practice of optometry. (NRS 636.125, 636.215) **Sections 2-12** of this bill define certain terms relating to the practice of optometry. **Section 20** of this bill makes a conforming change to indicate the proper placement of **sections 2-12** in the Nevada Revised Statutes. **Section 28** of this bill authorizes the Board to issue a citation to a person who violates certain provisions of law governing the practice of optometry.

Existing law establishes a schedule of fees which the Board may not exceed when charging for the issuance of a license to practice optometry and for certain other purposes. (NRS 636.143) **Section 21** of this bill revises the fees associated with the initial issuance of a license. **Section 21** sets forth the maximum fee the Board is authorized to charge for the initial issuance of a license to an applicant who is a veteran, which is one-half of the maximum fee the Board is authorized to charge an applicant who is not a veteran.

Existing law authorizes the Board to issue a license by endorsement to certain persons who hold a corresponding valid and unrestricted license to engage in the practice of optometry in the District of Columbia or any state or territory of the United States and who meet certain other requirements. (NRS 636.206) **Section 24** of this bill requires the: (1) corresponding license to be active; and (2) applicant to not have been licensed by the Board to practice optometry in this State in the immediately preceding year.

Existing law requires a licensee to notify the Executive Director of the Board in advance of changing the location where the licensee practices optometry or establishing an additional location to practice optometry. (NRS 636.370) **Section 15** of this bill requires a licensee to notify the Board not later than 30 days after a change of the personal mailing address or primary telephone number of the licensee or the electronic mail address that the licensee most recently provided to the Board.



Section 16 of this bill requires a licensee to report to the Board within 30 days the revocation, suspension or surrender of, or any disciplinary action taken against, a license, certificate or registration to practice any occupation or profession issued by any other jurisdiction.

Existing law prohibits an optometrist from owning all or any part of an optometry practice under an assumed or fictitious name unless the optometrist has been issued a certificate of registration by the Board to practice optometry under the assumed or fictitious name at a specified location. (NRS 636.350) **Section 26** of this bill specifies that each person who owns any part of such a practice hold an active license to practice optometry in this State and have been issued such a certificate of registration.

Section 14 of this bill: (1) authorizes a surviving family member of a licensed optometrist who has died and who was the sole owner of an optometry practice to own the optometry practice without holding a license to practice optometry in this State for not more than 1 year after the death of the licensed optometrist; and (2) clarifies that such ownership does not exempt a person from the requirement to obtain a license to engage in the practice of optometry. **Section 14** requires such a surviving family member, not later than 1 year after the death of the licensee, to transfer ownership of that optometry practice to another licensed optometrist or to dissolve the practice.

Existing law prohibits a person from engaging in the practice of optometry in this State unless the person is licensed by the Board. (NRS 636.145) **Section 17** of this bill authorizes students who are participating in certain externship programs pursuant to a course of study in optometry or certain persons engaged in a residency program for optometry to perform certain procedures pursuant to those programs which constitute engaging in the practice of optometry. **Section 22** of this bill makes a conforming change to indicate that the performance of such procedures does not constitute the unlawful practice of optometry.

Existing law authorizes a licensed optometrist to prescribe therapeutic or corrective lenses for the correction or relief of or remedy for an abnormal condition or inefficiency of the eye or visual process. (NRS 636.025, 636.215) **Section 18** of this bill prohibits a licensed optometrist from issuing, offering to issue, duplicating or extending a prescription for certain lenses if the optometrist has not performed, or does not have access to records relating to, a comprehensive eye examination performed within the immediately preceding 2 years on the intended recipient of the lenses.

Existing law defines the term “telehealth” to mean the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including facsimile or electronic mail. (NRS 629.515) **Section 8** of this bill defines the term “optometric telemedicine” to mean, in general, the use of telehealth by a licensed optometrist to deliver health care services within the scope of the practice of optometry to a patient at a different location. **Section 19** of this bill authorizes and sets forth certain requirements for the use of optometric telemedicine by a licensed optometrist for certain purposes. **Section 19** requires, with certain exceptions, a licensed optometrist to have performed a comprehensive examination on a patient within the immediately preceding 2 years to deliver health care services to the patient through optometric telemedicine. **Section 19** additionally authorizes an licensed optometrist to remotely monitor certain health data of a patient.

Existing law authorizes the State Board of Health to prescribe regulations relating to the operation of medical laboratories and the qualifications of the directors of those laboratories. (NRS 652.130) **Section 29** of this bill requires the regulations to include licensed optometrists among the licensed physicians qualified



to serve as the laboratory director of certain laboratories under certain circumstances.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. *“Asynchronous optometric telemedicine” means a form of optometric telemedicine in which data that is collected from an examination of a patient that is conducted in person is later transmitted to an optometrist for review.*

Sec. 3. 1. *“Comprehensive examination” means an examination of a patient which is conducted in person and during which all of the following tests, procedures or actions are performed:*

(a) The documentation of the primary reason for which the examination is conducted;

(b) A review of the medical history and ocular history of both the patient and his or her immediate family;

(c) A review of any medications used by the patient;

(d) A review of any allergies of the patient;

(e) A review of documentation identifying the patient’s primary care physician;

(f) General medical observations, including, without limitation, neurological and psychological orientation;

(g) Eye pressure;

(h) Gross, confrontation or formal visual fields;

(i) A basic sensorimotor examination;

(j) A complete pupillary assessment, including, without limitation, an examination of the presence of an afferent pupillary defect;

(k) Eye alignment;

(l) Visual acuities;

(m) Keratometry or autokeratometry;

(n) Anterior segment examination using a slit beam and magnification, as through a biomicroscope slit lamp, to include ocular adnexa, eyelid, eyelashes, conjunctiva, pupil, cornea, anterior chamber and lens;



(o) *Posterior segment examination that includes the examination of the optic nerve, macula, retina and vessels; and*

(p) *A review and assessment of all data collected pursuant to paragraphs (a) to (o), inclusive, and the development of a plan to provide necessary treatment.*

2. *The term includes an examination in which a test, procedure or action specified in paragraphs (a) to (p), inclusive, of subsection 1 was not performed if the person conducting the examination was unable to perform the test, procedure or action and used an alternative method to obtain comparable data to that which would have been obtained by the proper performance of the test, procedure or action.*

Sec. 4. *“Distant site” has the meaning ascribed to it in NRS 629.515.*

Sec. 5. *“Health care services” means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease that are within the scope of the practice of optometry.*

Sec. 6. *“Licensee” means a person who is licensed to practice optometry pursuant to this chapter.*

Sec. 7. *“Non-comprehensive examination” means an examination that includes some but not all of the elements of a comprehensive examination.*

Sec. 8. *“Optometric telemedicine” means the use of telehealth, as defined in NRS 629.515, by a licensee who is located at a distant site to deliver health care services to a patient who is located at an originating site. The term includes, without limitation, synchronous optometric telemedicine and asynchronous optometric telemedicine.*

Sec. 9. *“Optometry practice” or “optometric practice” means a business through which one or more optometrists practice optometry.*

Sec. 10. *“Originating site” has the meaning ascribed to it in NRS 629.515.*

Sec. 11. *“Remote patient monitoring” means the monitoring by a licensee of data:*

1. *Collected from a patient of the licensee at one location and transmitted to the licensee at another location; and*

2. *That is necessary to make informed decisions about providing health care services to the patient.*

Sec. 12. *“Synchronous optometric telemedicine” means a form of optometric telemedicine in which information is exchanged via electronic communication in real time and*



includes, without limitation, communication via telephone, video, a mobile application or an online platform on an Internet website.

Sec. 13. (Deleted by amendment.)

Sec. 14. *1. For not more than 1 year after the death of a licensee who is the sole owner of an optometry practice, a surviving member of the licensee's family may own the optometry practice without being licensed pursuant to this chapter. Not later than 1 year after the death of the licensee, the surviving member of the licensee's family shall transfer ownership of the optometry practice to a licensee or dissolve the optometry practice.*

2. The provisions of this section do not:

(a) Exempt a person from the requirement to obtain a license pursuant to this chapter to engage in the practice of optometry; and

(b) Abrogate, alter or otherwise affect any obligation to comply with the requirements of chapters 629 and 636 of NRS relating to the custody of health care records.

3. As used in this section, "member of the licensee's family" means any person related to the licensee by blood, adoption or marriage within the third degree of consanguinity.

Sec. 15. *A licensee shall notify the Board of any change in the personal mailing address or primary telephone number of the licensee or any change of the electronic mail address most recently provided by the licensee to the Board not later than 30 calendar days after the change.*

Sec. 16. *A licensee shall report to the Board within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license, certificate or registration to practice any occupation or profession issued to the licensee by another state or territory of the United States, the District of Columbia or a foreign country.*

Sec. 17. *1. A student who is enrolled in a graduate course of study in optometry at an accredited school or college of optometry and who is participating in an externship authorized by the school or college, as applicable, as part of that course of study may perform procedures within the scope of a license to practice optometry issued pursuant to this chapter if an optometrist or ophthalmologist licensed in this State:*

(a) Is physically present at the clinic where the student is performing the procedures at all times while those procedures are being performed; and

(b) Examines the person on whom the student performed any procedure before the person is discharged.



2. *Except as otherwise provided in subsection 3, a person who has received a degree of doctor of optometry and who is engaged in a residency program for optometry in this State may, without a license, engage in the practice of optometry within the scope of a license to practice optometry issued pursuant to this chapter and examine and manage patients without supervision if an optometrist or ophthalmologist licensed in this State is physically present at the clinic at all times when the person is practicing optometry.*

3. *A person described in subsection 2 may, in an emergency, provide care to a patient without an optometrist or ophthalmologist licensed in this State being physically present at the clinic if the person consults with an appropriate optometrist or ophthalmologist associated with the clinic to determine the proper care and management of the treatment of the patient.*

4. *As used in this section, "clinic" means a facility at which a licensed optometrist or ophthalmologist provides services to patients.*

Sec. 18. *It is unlawful for a licensee to issue, offer to issue, duplicate or extend a prescription for an ophthalmic lens for a person if the licensee has not performed a comprehensive examination, or does not have access to the complete results of a comprehensive examination that was performed, on the person within the immediately preceding 2 years.*

Sec. 19. 1. *Except as otherwise provided in subsection 5, a person shall not engage in optometric telemedicine to provide health care services to a patient located at an originating site in this State unless the person is licensed to practice optometry pursuant to this chapter.*

2. *Except as otherwise provided in subsection 3, a licensee may engage in synchronous or asynchronous optometric telemedicine to provide health care services to a patient only if the licensee has completed a comprehensive examination on the patient within the immediately preceding 2 years.*

3. *A licensee may engage in synchronous optometric telemedicine to perform a non-comprehensive examination of a new patient if the licensee has access to all the information obtained from a comprehensive examination of the patient that was conducted by an optometrist or ophthalmologist within the immediately preceding 2 years.*

4. *A licensee may engage in asynchronous optometric telemedicine to conduct a consultation regarding a patient on*



whom the licensee has not completed a comprehensive examination within the immediately preceding 2 years if:

(a) An optometrist, ophthalmologist or primary care physician providing care to the patient requests that the licensee conduct the consultation and provides the licensee with all the information about the patient that is necessary to determine whether the patient requires a comprehensive examination; and

(b) The consultation performed by the licensee is limited to a determination of whether the patient requires a comprehensive examination and does not involve any diagnosis, recommendation for or treatment of the patient or a prescription for the patient.

5. A person who holds a valid, active and unrestricted license issued by the District of Columbia or any state or territory of the United States to practice optometry may conduct a consultation through asynchronous optometric telemedicine described in subsection 4 in the same manner as a licensee pursuant to that subsection without holding a license to practice optometry in this State.

6. A licensee may engage in remote patient monitoring of a patient on whom the licensee has completed a comprehensive examination within the immediately preceding 2 years for the purposes of:

(a) Acquiring data about the health of the patient;

(b) Assessing changes in previously diagnosed chronic health conditions;

(c) Confirming the stability of the health of the patient; or

(d) Confirming expected therapeutic results.

7. A licensee may engage in optometric telemedicine to provide health care services to a patient who is located at an originating site outside this State if the licensee has completed a comprehensive examination of the patient within the immediately preceding 2 years and such action is permitted by the laws of the state in which the patient is located.

8. A licensee shall not engage in optometric telemedicine to provide any health care service to the patient that the licensee has determined should be provided in person.

9. A licensee engaging in optometric telemedicine or remote patient monitoring shall not:

(a) Conduct himself or herself in a manner that violates the standard of care required of an optometrist who is treating a patient in person, including, without limitation, by issuing a prescription for ophthalmic lenses based solely upon one or more of the following:



(1) Answers provided by a patient in an online questionnaire;

(2) The application of lensometry; or

(3) The application of auto-refraction; or

(b) Condition the provision of optometric telemedicine or remote patient monitoring on the patient consenting to receiving a standard of care below that which is required by paragraph (a).

Sec. 20. NRS 636.015 is hereby amended to read as follows:

636.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 636.016 to 636.023, inclusive, *and sections 2 to 12, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 21. NRS 636.143 is hereby amended to read as follows:

636.143 **1.** At least once every 2 years, the Board shall review and, if the Board deems it necessary, establish or revise, within the limits prescribed a schedule of fees for the following purposes:

Not more than

[1.] (a) Examinations.....	\$250
[2.] (b) Applications for the issuance of a 1-year license	\$600
3. Renewal] Initial issuance or renewal of a license.....	\$1,200
[4.] (c) Granting certification or issuing certificates.....	\$1,000
[5.] (d) Licensing of extended clinical facilities and other practice locations.....	\$500
[6.] (e) Individually verifying licensure or disciplinary status.....	\$100
[7.] (f) Late fee.....	\$1,000
[8.] (g) <i>Initial issuance of a license to an applicant who is a veteran</i>	<i>\$600</i>
(h) Any other service provided by the Board pursuant to this chapter.....	\$1,000

2. As used in this section, “veteran” has the meaning ascribed to it in NRS 417.005.

Sec. 22. NRS 636.145 is hereby amended to read as follows:

636.145 **1.** ~~[A]~~ *Except as otherwise provided in section 17 of this act, a* person shall not engage in the practice of optometry in this State unless:



(a) The person has obtained a license pursuant to the provisions of this chapter; and

(b) Except for the year in which such license was issued, the person holds a current renewal card for the license.

2. The Board shall conduct an investigation pursuant to subsection 3 if the Board receives a complaint which sets forth any reason to believe that a person has engaged in the practice of optometry in this State without a license issued pursuant to this chapter.

3. In addition to any other penalty prescribed by law, if the Board, after conducting an investigation and hearing in accordance with chapters 233B, 622 and 622A of NRS, determines that a person has committed any act described in subsection 1, the Board may:

(a) Issue and serve on the person an order to cease and desist from the practice of optometry until the person obtains a license from the Board.

(b) Issue a citation to the person ~~and~~ *pursuant to NRS 636.420.*

(c) Impose any combination of the penalties set forth in paragraphs (a) and (b).

4. Unless the Board determines that extenuating circumstances exist, the Board shall forward to the appropriate law enforcement agency any substantiated information submitted to the Board concerning a person who practices or offers to practice optometry without a license issued pursuant to this chapter.

5. Each instance of unlicensed activity constitutes a separate offense for which a separate citation may be issued.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 636.206 is hereby amended to read as follows:

636.206 1. The Board may issue a license by endorsement to engage in the practice of optometry to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid, *active* and unrestricted license to engage in the practice of optometry in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of optometry for the past 5 years;



(4) *Has not held a license to practice optometry in this State in the immediately preceding year;*

(5) Has not been disciplined and is not currently under investigation by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license to engage in the practice of optometry; and

~~[(5)]~~ (6) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(c) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to engage in the practice of optometry pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to engage in the practice of optometry to the applicant not later than 45 days after receiving the application.

4. A license by endorsement to engage in the practice of optometry may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 636.350 is hereby amended to read as follows:

636.350 1. ~~[An optometrist]~~ *A person* shall not own all or any portion of an optometry practice under an assumed or fictitious name unless the ~~[optometrist has]~~ *person:*

(a) *Holds an active license to practice optometry in this State; and*

(b) *Has* been issued a certificate of registration by the Board to practice optometry under the assumed or fictitious name and at a specific location.

2. ~~[An optometrist]~~ *A person* who applies for a certificate of registration to own all or any portion of an optometry practice under an assumed or fictitious name must submit to the Board an application on a form provided by the Board. The application must be accompanied by proof satisfactory to the Board that the assumed or fictitious name has been registered or otherwise approved by any appropriate governmental entity, including, without limitation, any incorporated city or unincorporated town in which the optometrist



practices, if the registration or other approval is required by the governmental entity.

3. Each ~~optometrist~~ **person** who is issued a certificate of registration pursuant to this section shall:

(a) Comply with the provisions of chapter 602 of NRS;

(b) Display or cause to be displayed near the entrance of his or her business the full name of the optometrist and the words or letters that designate him or her as an optometrist; and

(c) Display or cause to be displayed near the entrance of his or her business the full name of any optometrist who regularly provides optometric services at the business and the words or letters that designate him or her as an optometrist.

4. The Board shall adopt regulations that prescribe the requirements for the issuance of a certificate of registration to practice optometry under an assumed or fictitious name.

5. As used in this section, "assumed or fictitious name" means a name other than the name of the optometrist printed on his or her license to practice optometry.

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 636.420 is hereby amended to read as follows:

636.420 **1.** After providing notice and a hearing pursuant to chapter 622A of NRS, the Board may impose an administrative fine of not more than \$5,000 for each violation against a person licensed under this chapter who engages in any conduct constituting grounds for disciplinary action set forth in NRS 636.295.

2. *If the Board determines that a person has violated any provision of this chapter, the Board may issue a citation to the person. The citation may contain an order to pay an administrative fine of not more than \$1,000 for each violation or, for a violation described in subsection 1, \$5,000 for each such violation. A citation issued pursuant to this subsection must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this subsection. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit to the Board a written request for a hearing not later than 30 days after the date of issuance of the citation. The Board shall provide notice of and conduct a hearing requested pursuant to this subsection in accordance with the provisions of chapter 622A of NRS.*

Sec. 29. NRS 652.130 is hereby amended to read as follows:

652.130 **1.** Except as otherwise provided in NRS 652.127, the Board, with the advice of the Medical Laboratory Advisory



Committee, may prescribe and publish rules and regulations relating to:

(a) The education, training and experience qualifications of laboratory directors and technical personnel.

(b) The location and construction of laboratories, including plumbing, heating, lighting, ventilation, electrical services and similar conditions, to ensure the conduct and operation of the laboratory in a manner which will protect the public health.

(c) Sanitary conditions within the laboratory and its surroundings, including the water supply, sewage, the handling of specimens and matters of general hygiene, to ensure the protection of the public health.

(d) The equipment essential to the proper conduct and operation of a laboratory.

(e) The determination of the accuracy of test results produced by a laboratory and the establishment of minimum qualifications therefor.

2. Any regulations adopted by the Board pursuant to this section must not require that the laboratory director of a laboratory in which the only test performed is a test for the detection of the human immunodeficiency virus that is classified as a waived test pursuant to Subpart A of Part 493 of Title 42 of the Code of Federal Regulations:

(a) Be a licensed physician; or

(b) Perform duties other than those prescribed in NRS 652.180.

3. Any regulations adopted by the Board pursuant to this section that require the laboratory director of a laboratory in which the only tests performed are tests that are classified as waived tests pursuant to Subpart A of Part 493 of Title 42 of the Code of Federal Regulations to be a licensed physician must include a licensed optometrist among the types of licensed physicians who are qualified to serve as a laboratory director of such a laboratory.

Sec. 30. (Deleted by amendment.)



**REVISED PROPOSED REGULATION OF THE
NEVADA STATE BOARD OF OPTOMETRY**

LCB File No. R066-19

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

AUTHORITY: §§1, 10, 13-16, 37-43 and 45, NRS 636.125; §§2 and 6, NRS 636.125 and section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636; §3, NRS 636.110 and 636.125; §4, NRS 636.125 and 636.135; §5, NRS 636.125, 636.250 and 636.260; §7, NRS 636.125, 636.143, 636.287, 636.2893 and 636.350 and section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636; §8, NRS 636.125 and 636.260; §9, NRS 636.125 and section 4.5 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3637; §11, NRS 622A.360, 622A.390 and 636.125; §12, NRS 636.125 and 636.373; §17, NRS 636.125, 636.150 and 636.180; §§18 and 20-28, NRS 636.125, 636.302 and 636.380; §§19 and 44, NRS 636.125 and 636.287; §29, NRS 636.125, 636.350 and 636.360; §30, NRS 636.125 and 636.350; §31, NRS 636.125 and section 3 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3635; §32, NRS 636.125 and 636.295; §33, NRS 636.125 and 636.372; §34, NRS 636.125 and 636.300; §35, NRS 636.125 and 636.2893; §36, NRS 636.125 and 636.375.

A REGULATION relating to optometry; prescribing requirements concerning the licensure and operation of a mobile optometry clinic; approving the accreditation of certain schools of optometry; prescribing certain requirements governing the issuance and renewal of licenses and certificates issued by the Nevada State Board of Optometry and the practice of optometry; prescribing fees for certain services of the Board; requiring a licensee to report certain criminal, civil or regulatory actions to the Board; revising provisions governing the advertisement and promotion of optometric services; revising the grounds for disciplinary action against an optometrist; revising provisions governing procedure in proceedings of the Board; revising procedures relating to the submission of certain petitions to the Board and the consideration of such petitions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes certain persons and entities to obtain a certificate from the Nevada State Board of Optometry to own or operate a mobile optometry clinic. A certified mobile optometry clinic is only authorized to provide optometric services to governmental

agencies, patients with impaired or restricted mobility, members of low-income and other medically underserved groups and academic programs. (Section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636) **Section 2** of this regulation defines the terms “medically underserved group” and “mobile optometry clinic.” **Section 3** of this regulation provides that the Board will maintain an account that contains an amount of money that is sufficient to pay the operating expenses of the Board for at least 13 months. **Section 6** of this regulation: (1) requires an application for the issuance or renewal of a certificate to operate a mobile optometry clinic to include a physical address associated with the clinic; and (2) imposes certain requirements relating to the records of a mobile optometry clinic.

Existing law requires the Board to accredit schools which provide a sufficient and thorough course of study for the preparation of optometrists or approve the accreditation of such schools by any nationally recognized accrediting organization or agency. (NRS 636.135) **Section 4** of this regulation provides that the Board approves the accreditation of schools by the Accreditation Council on Optometric Education, or its successor organization.

Existing law requires the Board to impose fees for certain services. (NRS 636.143) Existing law also requires a person applying for a license to practice optometry to file with the Board proof of his or her qualifications, pass certain examinations and pay the prescribed fees. (NRS 636.150) **Section 5** of this regulation prescribes requirements governing the submission of an application for a license, and **section 7** of this regulation prescribes a schedule of fees for services of the Board. **Section 17** of this regulation specifies the examinations that an applicant must pass and makes certain other revisions concerning an application for a license. **Section 45** of this regulation repeals a provision concerning reexaminations. (NAC 636.080)

Existing law requires: (1) the biennial renewal of a license to practice optometry; and (2) a licensee to complete the continuing education prescribed by the Board during the period in between renewals of the license. (NRS 636.260) **Section 8** of this regulation prescribes the required hours and subject matter of that continuing education and the criteria the Board will use to determine whether to approve continuing education.

Existing law prohibits an optometrist from treating a person diagnosed with glaucoma unless the optometrist has been issued a certificate to treat such a patient. (NRS 636.2891) Existing law authorizes the Board to issue a certificate by endorsement to treat a person diagnosed with glaucoma to a person who holds a similar credential in another jurisdiction. (Section 4.5 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3637) **Section 9** of this regulation requires an applicant for a certificate by endorsement to: (1) be a licensed optometrist in this State; and (2) possess a valid certificate to administer and prescribe pharmaceutical agents. **Section 35** of this regulation revises the requirements to receive a certificate to treat a patient who has been diagnosed with glaucoma.

Section 10 of this regulation prescribes requirements relating to the ownership of records concerning a patient who receives services from an optometrist.

Assembly Bill No. 77 of the 2019 Legislative Session removed provisions governing procedure for disciplinary hearings before the Board and instead requires such hearings to be conducted in accordance with general provisions of law governing hearings before regulatory

bodies. (Sections 48.3 and 65 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at pages 3650 and 3659) Those general provisions of law authorize a regulatory body to allow the president or chair of a regulatory body to rule on a motion. (NRS 622A.360, 622A.390) **Section 11** of this regulation authorizes the President of the Board or, in his or her absence, the Vice President, if any, to rule on a motion. **Sections 32, 33 and 45** of this regulation revise the grounds for disciplinary action against an optometrist. **Sections 36-39** of this regulation make revisions concerning the procedure for disciplinary proceedings before the Board. **Section 45** also repeals provisions that are duplicative of general provisions of law that now apply to proceedings before the Board.

Existing law authorizes an optometrist to form an association or other business relationship with a physician to provide their respective services to patients. (NRS 636.373) **Section 12** of this regulation prescribes certain requirements relating to such a relationship. **Section 12** also authorizes an optometrist to form an association or other business relationship with an unlicensed person to perform certain duties concerning the operation of business.

Section 13 of this regulation prohibits an optometrist from charging a fixed fee for certain premium intraocular lenses that exceeds the fixed fee for a standard intraocular lens. **Section 13** also imposes requirements governing billing for services associated with implanting such a premium intraocular lens. **Section 14** of this regulation requires a licensee to report to the Board certain criminal, civil or regulatory actions against the licensee. **Sections 15, 16 and 18** of this regulation revise certain definitions related to the practice of optometry.

Assembly Bill No. 77 of the 2019 Legislative Session revised the terminology used to describe a certificate to administer and prescribe therapeutic pharmaceutical agents to instead refer to a certificate to administer and prescribe pharmaceutical agents. (NRS 636.288, as amended by section 37 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3646) **Sections 19, 35 and 44** of this regulation make corresponding changes to existing regulations. **Section 44** of this regulation also removes certain requirements concerning a training program that an optometrist must complete to receive such a certificate. **Sections 20-28** of this regulation revise provisions governing the advertisement and promotion of optometric services and products.

Assembly Bill No. 77 of the 2019 Legislative Session removed a prohibition on practicing optometry under an assumed or fictitious name that is not registered with the Board and instead prohibits an optometrist from owning all or any portion of an optometry practice under an unregistered assumed or fictitious name. (NRS 636.350, as amended by section 49 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3652) **Sections 29 and 30** of this regulation make corresponding changes to existing regulations.

Existing regulations authorize an optometrist to practice optometry outside his or her office for not more than 14 working days during a year if the optometrist provides written notice to the Board of the day and place of such practice. (NAC 636.210) **Section 29** of this regulation: (1) limits such practice to an office that is registered as a practice location for another optometrist; and (2) revises the number of days for which such practice is authorized. **Section 29** also authorizes an optometrist who obtains from the Board a certificate as a substitute optometrist to engage in such practice for an unlimited number of days, provided the substitute

optometrist does not practice at the same location for more than 28 working days during the period in between renewals of his or her license.

Existing law authorizes an assistant to perform certain tasks in an optometric practice. (Section 3 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3635) **Section 31** of this regulation clarifies that an optometrist may employ an assistant without violating a prohibition on employing an unlicensed person to perform any services for which an optometrist's license is required.

Existing regulations require a licensee who locates his or her office in a part of a building where an unlicensed person conducts business to construct and maintain a partition or wall to separate the office of the licensee from the business of the unlicensed person. (NAC 636.250) **Section 34** of this regulation additionally requires the optometrist to maintain a separate reception area, cash drawer, scheduling system, staff, computerized system and physical space from the business of the unlicensed person. **Section 34** also prohibits an optometrist from: (1) using legal representation paid for or arranged by an unlicensed person; and (2) serving as an employee or independent contractor of an unlicensed person except in certain circumstances authorized by law.

Existing regulations provide for the Board to consider petitions for declaratory orders or advisory opinions or petitions for the adoption, amendment or repeal of a regulation. (NAC 636.650, 636.660) **Sections 40 and 41** of this regulation make revisions concerning the submission and consideration of such petitions. **Sections 42 and 43** of this regulation revise provisions governing prescriptions for spectacle lenses and contact lenses.

Section 1. Chapter 636 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636:*

1. "Medically underserved group" means a population that:

(a) Has been designated as a medically underserved population by the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 254c; or

(b) Resides in an area that has been designated as a health professional shortage area with a score of 13 or above by the United States Secretary of Health and Human Services pursuant to 42 U.S.C. § 254e.

2. *“Mobile optometry clinic” means an optometrist moving optometric instruments or equipment to a location, other than a building with fixed equipment and instruments, maintained for practicing optometry under the conditions described in section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636. The term:*

(a) Includes, without limitation, a vehicle in which an optometrist provides optometric services.

(b) Does not include an optometrist practicing in different buildings which each have fixed equipment and instruments maintained for practicing optometry or providing optometric services under conditions other than those described in section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636.

Sec. 3. *The Board will maintain in an account separate from its general operating account an amount of money that is sufficient to pay the operating expenses of the Board for at least 13 months.*

Sec. 4. *For the purposes of NRS 636.135, the Board approves the accreditation of schools by the Accreditation Council on Optometric Education, or its successor organization.*

Sec. 5. *1. An application for the renewal of a license or certificate must be in the form prescribed by the Board. The application must be accompanied by the fees required by section 7 of this regulation.*

2. The renewal of a license or certificate pursuant to NRS 636.250 or section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636, is effective on the date on which a complete application containing all required materials and fees is postmarked or received electronically by the Executive Director.

Sec. 6. 1. *An application for the issuance or renewal of a certificate to own or operate a mobile optometry clinic must include, without limitation, a physical address associated with the mobile optometry clinic.*

2. *If a licensee provides services for a mobile optometry clinic that is not operated by the licensee, the records of the patients whom the licensee treats shall be deemed to be the records of the licensee and are not the records of the mobile optometry clinic.*

3. *A licensee who provides services for a mobile optometry clinic shall maintain a record of the dates and locations at which the services are provided and retain the record in accordance with NRS 629.051.*

Sec. 7. *The Board will charge and collect:*

1. *For an initial application for a license, a nonrefundable fee in the amount of \$75 plus \$93.75 for each calendar quarter or portion thereof remaining in the biennial licensing period until the renewal date prescribed by NRS 636.265, not to exceed a total of \$825.*

2. *For a certificate to own or operate a mobile optometry clinic, a nonrefundable fee in the amount of \$75 plus \$93.75 for each calendar quarter or portion thereof remaining in the biennial licensing period until the renewal date prescribed by section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636, not to exceed a total of \$825.*

3. *The following nonrefundable fees:*

- (a) Initial application for a license by endorsement\$450*
- (b) Initial application for a certificate to administer and prescribe pharmaceutical agents\$75*
- (c) Initial application for or biennial renewal of a certificate as a substitute optometrist\$200*

<i>(d) Initial application for a certificate to treat a person diagnosed with glaucoma, including, without limitation, a certificate by endorsement.....</i>	<i>\$175</i>
<i>(e) Biennial renewal of active license with one practice location</i>	<i>\$750</i>
<i>(f) Biennial renewal of inactive license.....</i>	<i>\$500</i>
<i>(g) Biennial renewal of a certificate to own or operate a mobile optometry clinic.....</i>	<i>\$600</i>
<i>(h) Late fee for reinstatement of license suspended pursuant to NRS 636.275.....</i>	<i>\$500</i>
<i>(i) Activation of inactive license.....</i>	<i>\$250</i>
<i>(j) Addition of a practice location associated with a license.....</i>	<i>\$200</i>
<i>(k) Biennial renewal fee, in addition to the fee prescribed in paragraph (e), for each practice location in addition to the licensee’s primary practice location</i>	<i>\$200</i>
<i>(l) Registration of assumed or fictitious name.....</i>	<i>\$50</i>
	<i>per practice location</i>
<i>(m) Change of practice location or change of address.....</i>	<i>\$25</i>
<i>(n) Letter of good standing</i>	<i>\$25</i>
<i>(o) Replacement license or certificate</i>	<i>\$75</i>
<i>(p) Replacement renewal card issued pursuant to NRS 636.265</i>	<i>\$25</i>

Sec. 8. 1. *Except as otherwise provided in subsection 2, a licensee must complete at least 40 hours of continuing education during the 2 years immediately preceding the date on which a license is required to be renewed. Not more than 5 hours of the required continuing education may be in the subject of practice management.*

2. A licensee who is certified to administer and prescribe pharmaceutical agents must complete at least 50 hours of continuing education during the 2 years immediately preceding the date on which a license must be renewed. At least 30 hours of the required continuing

education must be related to pharmaceutical agents or disease. Not more than 10 hours of the required continuing education may be in the subject of practice management.

3. A licensee who is subject to the requirements of NRS 636.2881 may count the continuing education required by that section as part of the 30 hours of continuing education relating to pharmaceutical agents or disease required by subsection 2.

4. Continuing education may be completed in person, over the Internet or by correspondence or videoconference. 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 percent on the examination for the course.

5. Continuing education will be awarded in 15 minute increments. Instruction time must be rounded to the nearest 15 minutes, except that 50 minutes or more of instruction may be rounded up to the nearest hour. A licensee may not receive credit for more than 10 hours of continuing education during any 24-hour period.

6. The Board will approve continuing education in appropriate subjects that is provided or approved by:

(a) A school of optometry approved by the Accreditation Council on Optometric Education, or its successor organization;

(b) A regional, state or national optometric association;

(c) The Council on Optometric Practitioner Education, or its successor organization;

(d) For continuing education completed to satisfy the requirements of NRS 636.2881 or subsection 6 of NRS 636.338, the American Medical Association, or its successor organization, as Category 1 continuing medical education.

7. The Board will approve continuing education not described in subsection 6 if:

(a) The provider of the continuing education submits to the Board a course syllabus or program and the name of the licensee who will complete the course before the date on which the continuing education is provided or the licensee includes the continuing education on the form for proof of completion of continuing education submitted pursuant to NRS 636.260; and

(b) The Board determines that the training is appropriately rigorous, is provided by a qualified provider and concerns an appropriate subject.

8. The Board will notify a licensee if continuing education submitted for approval pursuant to subsection 7 is not approved.

9. A licensee shall not submit the form for proof of completion of continuing education pursuant to NRS 636.260 until all continuing education required by subsection 1 or 2, as applicable, has been completed.

Sec. 9. *In addition to meeting the requirements prescribed by section 4.5 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3637, an applicant for a certificate by endorsement to treat a person diagnosed with glaucoma must:*

- 1. Be licensed and in good standing to practice optometry in the State of Nevada.*
- 2. Possess a valid certificate to administer and prescribe pharmaceutical agents issued pursuant to NRS 636.288.*

Sec. 10. *If an optometrist provides services as an employee, the records relating to the patient who receives those services belong to the employer of the optometrist. In all other cases, those records belong to the optometrist.*

Sec. 11. *The President of the Board or, in the absence of the President, the Vice President of the Board, if any, may decide any motion listed in NRS 622A.360 or 622A.390. If*

the President or Vice President, as applicable, determines that it is most appropriate for the Board to decide the motion, the President or Vice President, as applicable, may decline to decide the motion. When so declined, the Board will schedule a meeting to decide the motion in a timely manner.

Sec. 12. 1. *If an optometrist forms an association or other business relationship with a physician pursuant to NRS 636.373, the optometrist must:*

- (a) Comply with any applicable requirements of the Internal Revenue Service;*
- (b) Maintain financial and organizational independence from any person who is not licensed to practice optometry, other than the physician; and*
- (c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship.*

2. An optometrist shall not employ or be employed by a physician.

3. An optometrist may form an association or other business relationship with a person, other than a physician, who is not licensed to practice optometry to perform duties concerning the operation of the business. Such duties must be limited to duties concerning the operation of the business and may include, without limitation, performing services related to payroll, human resources, real estate, regulatory matters not related to health care, banking, accounting, administration of benefits, marketing, merchandising, occupancy, accounts payable, accounts receivable, supply chain management, business development, business administration, labor, compliance with applicable laws and regulations, purchasing and medical billing.

4. An optometrist who forms an association or other business relationship with a person who is not licensed to practice optometry pursuant to subsection 3 shall:

(a) Comply with any applicable requirements of the Internal Revenue Service;

(b) Maintain organizational and financial independence from the person who is not licensed to practice optometry and ensure that the person who is not licensed to practice optometry is not involved in:

(1) Clinical decisions;

(2) Scheduling of patients;

(3) Any decision concerning scope of practice or use of facilities, equipment or drugs;

or

(4) Any other decision concerning the provision of care to a patient or the outcome of any treatment or other service provided to a patient; and

(c) Ensure that any advertising, marketing and promotional materials accurately portray the position of the optometrist within the association or business relationship, including, without limitation, whether the practice of the optometrist is included within any assumed or fictitious name used by the association or other business relationship.

Sec. 13. 1. *An optometrist shall not charge a patient or receive a fixed fee pursuant to NRS 636.374 for a multifocal, toric or other premium intraocular lens in an amount that exceeds the fixed fee that the optometrist charges or receives pursuant to NRS 636.374 for a standard intraocular lens.*

2. An optometrist shall provide written notice to a patient of any fees for tests or procedures performed in connection with the implantation of a multifocal, toric or other premium intraocular lens that are not included in the fixed fee described in subsection 1. The

written notice must include, without limitation, disclosure of the fair market value of the fees or tests.

3. An optometrist may collect any fees described in subsection 2 by:

(a) Directly billing the patient for those fees; or

(b) Requiring the patient to pay the fees to an ophthalmologist with whom the optometrist collaborates pursuant to NRS 636.374.

Sec. 14. 1. *A licensee or applicant for a license shall report to the Board not later than 30 days after:*

(a) Being charged with or convicted of a crime, other than a minor traffic violation, in this State, any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country or by the Federal Government or a branch of the Armed Forces of the United States;

(b) Any disciplinary action is taken against the licensee or applicant by a licensing authority in this State, any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country;

(c) A civil action relating to the practice of optometry is filed against the licensee or applicant in a federal court or court of this State, any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country; or

(d) An extended order for protection against domestic violence is issued against the licensee pursuant to NRS 33.020 or a similar statute in any other state, the District of

Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States or a foreign country.

2. The Executive Director or his or her designee will review a report made pursuant to subsection 1 and conduct any investigation he or she determines is necessary to ascertain the facts concerning the incident described in the report. Such an investigation may include, without limitation, requiring the licensee or applicant to provide information concerning the incident.

Sec. 15. NAC 636.050 is hereby amended to read as follows:

636.050 “Office” means any office , *motor vehicle or trailer operated as a mobile optometry clinic* or other place for the practice of optometry. The term includes the contiguous area which the licensee owns or leases in conjunction with the practice of optometry.

Sec. 16. NAC 636.055 is hereby amended to read as follows:

636.055 “Ophthalmic products” means any materials used for the correction or relief of or remedy for any abnormal condition or inefficiency of the eye or visual process. The term includes, but is not limited to, spectacle frames, spectacle lenses, contact lenses ~~, and ocular solutions and ointments. ,~~ *devices and pharmaceutical agents.*

Sec. 17. NAC 636.075 is hereby amended to read as follows:

636.075 1. The ~~examination~~ *examinations* required pursuant to NRS 636.150 ~~will~~ consist of ~~two parts, as follows:~~ :

(a) The ~~examination~~ *Part I, Part II and Part III examination and the Treatment and Management of Ocular Disease Examination* prepared by the National Board of Examiners in Optometry ~~,~~ *or its successor organization;* and

(b) The examination prepared by the Board which relates to the laws and regulations governing the practice of optometry in this State.

2. The Board *or its designee* will review the results of the examination of an applicant. If the Board determines that the results comply with the requirements of chapter 636 of NRS, the Board ~~will~~ *may* approve the application for licensure of the applicant. *The Board will notify the applicant whether the application is approved. Upon receiving notice of approval, the applicant must pay the fees prescribed by section 7 of this regulation and provide to the Board a list of the addresses at which he or she will practice. Not later than 60 days after receiving the fees and list, the Board will issue a license to the applicant.*

Sec. 18. NAC 636.110 is hereby amended to read as follows:

636.110 As used in NAC 636.120 to 636.200, inclusive, the phrase “Do not meet the specifications of the American National Standards Institute” means that the ophthalmic products:

1. Were not purchased from a manufacturer or wholesaler who warrants that they meet *the most current version of* those specifications, if applicable; or
2. Do not meet *the most current version of* those specifications, if applicable.

Sec. 19. NAC 636.115 is hereby amended to read as follows:

636.115 An optometrist who is certified to administer and prescribe ~~therapeutic~~ pharmaceutical agents pursuant to NRS 636.288:

1. May represent himself or herself to the public as:
 - (a) Certified in the treatment of ocular disease;
 - (b) Board certified in the treatment of ocular disease;
 - (c) Board certified in the treatment and management of ocular disease; or
 - (d) Certified in the treatment and management of ocular disease.

2. May not, when referring to his or her certification, represent himself or herself to the public in any manner other than the exact designations set forth in subsection 1.

Sec. 20. NAC 636.120 is hereby amended to read as follows:

636.120 1. *An optometrist may represent his or her professional designation as:*

(a) Optometrist;

(b) O.D.;

(c) OD;

(d) Doctor of Optometry;

(e) Dr. of Optometry; or

(f) Another designation approved by the Board that the Board determines is not misleading.

2. No abbreviation may be used for any of the information required by NAC 636.130 to 636.200, inclusive, except abbreviations approved in writing by the Board.

Sec. 21. NAC 636.130 is hereby amended to read as follows:

636.130 1. A licensee shall post a sign at the entrance to ~~his or her~~ *any* office that ~~specifies~~ *is registered with the Board as a practice location of the licensee. The sign must include, without limitation,* the licensee's ~~full~~ *last* name, *as it appears on his or her license,* *the* professional designation *of the licensee* and the hours during which the office is open.

2. A sign posted at a location which is remote from the office must specify, *without limitation,* the ~~full~~ *last* name of the licensee *as it appears on his or her license* and his or her professional designation.

Sec. 22. NAC 636.140 is hereby amended to read as follows:

636.140 1. Any printed *or electronic* advertisement *for an optometrist licensed to practice in this State or an ophthalmic product offered by an optometrist* must contain ~~{the full}~~

:

(a) *The last* name of the optometrist, *as it appears on his or her license*, and his or her professional designation ~~{}~~; *or*

(b) *The assumed or fictitious name registered with the Board by the optometrist pursuant to NRS 636.350.*

2. Any disclaimer in ~~{the}~~ *a printed or electronic* advertisement *for an optometrist or an ophthalmic product offered by an optometrist* must be printed in such a manner as to allow a reasonable person to read and understand it.

3. *A printed or electronic advertisement for the services of an optometrist or an ophthalmic product offered by an optometrist must be presented in a manner that is clearly separate from any advertisement paid for or produced by a person who is not licensed to practice optometry.*

Sec. 23. NAC 636.142 is hereby amended to read as follows:

636.142 1. Any broadcast advertisement placed by an optometrist licensed to practice in this State must include an oral statement of ~~{the full}~~ :

(a) *The last* name of the optometrist *as it appears on his or her license* and his or her professional designation ~~{}~~; *or*

(b) *The assumed or fictitious name registered with the Board by the optometrist pursuant to NRS 636.350.*

2. Any disclaimer in ~~the~~ *a broadcast* advertisement *placed by an optometrist* must be displayed or communicated in such a manner that a reasonable person would have the opportunity to read or hear and understand it.

3. *A broadcast advertisement placed by an optometrist must be clearly separate from any advertisement paid for or produced by an unlicensed entity.*

Sec. 24. NAC 636.145 is hereby amended to read as follows:

636.145 A licensee may use a symbol *or logo* for advertising *only* if it is:

1. Displayed with ~~the full~~ :

(a) *The last name of the licensee as it appears on his or her license* and *the* professional identification of the licensee; *or*

(b) *The assumed or fictitious name registered with the Board by the licensee pursuant to NRS 636.350*; and

2. Printed no more prominently than the *last* name and professional ~~identification~~ *designation or the assumed or fictitious name, as applicable*, of the licensee.

Sec. 25. NAC 636.150 is hereby amended to read as follows:

636.150 1. Advertising of *an* ophthalmic ~~products~~ *product or device* must include ~~the following information and, if printed, the information must be printed as prominently as the words promoting the product:~~

~~1.]~~ , *without limitation*:

(a) A statement whether the price or discounted price includes an examination of the eyes.

~~2.—If applicable, a statement that the product is a second or has been discontinued.~~

~~—3.1~~ (b) A notice, ~~["Do"]~~ *“Does* not meet the specifications of the American National Standards Institute” if the ophthalmic ~~products do]~~ *product does* not meet the applicable specifications of the American National Standards Institute.

2. If advertising of an ophthalmic product or device is printed or electronic, the information described in subsection 1 must be printed as prominently as the words promoting the product.

Sec. 26. NAC 636.160 is hereby amended to read as follows:

636.160 In addition to the information required pursuant to NAC 636.150, the advertising of spectacle lenses must include the following information:

1. If applicable, a statement that the price for *advertised* lenses may vary depending upon the purchaser’s specific prescription.

2. A statement that the *advertised* lenses are clear, tinted or photochromic.

3. A statement that the *advertised* lenses are glass or plastic, single vision, bifocal or trifocal, that they are occupational or aphakic, and if the lenses are:

(a) Bifocal, the advertisement must state the segment size except for executive or dualens types.

(b) Trifocal, the advertisement must state the segment size except for executive or dualens and variable focus types.

(c) Occupational or aphakic, the advertisement must state that they are lenticular aspheric, lenticular nonaspheric or full-field aspheric.

Sec. 27. NAC 636.170 is hereby amended to read as follows:

636.170 1. In addition to the information required pursuant to NAC 636.150, the advertising of contact lenses must include the following information:

(a) A statement that the *advertised* lenses are hard or soft, daily or extended wear, or gas permeable.

(b) A statement that the *advertised* lenses are single vision or ~~bifocal~~ *multifocal*.

(c) A statement whether the price or discounted price *advertised* includes all the required accessories and ~~if not, the cost of all the required accessories~~ *fees for any required fitting or evaluation*.

2. Contact lenses received from a manufacturer in a package containing multiple lenses of the same prescription that are intended to be used as scheduled replacements or as disposable lenses may not be advertised for sale or sold as permanent lenses.

Sec. 28. NAC 636.190 is hereby amended to read as follows:

636.190 An advertisement of *an* optometric ~~examinations~~ *examination, eye examination, vision examination, eye test or vision test* must include a specific disclaimer if any of the following services are not included:

1. An ophthalmoscopy.
2. A subjective examination.
3. Binocularity testing.
4. A check of normal aided and unaided acuities.
5. A case history.
6. Tonometry.
7. Near-point accommodative tests.
8. Keratometry.
9. Slit-lamp biomicroscopy.
10. A refraction.

11. A dilated fundus examination.

Sec. 29. NAC 636.210 is hereby amended to read as follows:

636.210 1. An optometrist shall not:

(a) ~~{Practice optometry or maintain an ownership interest in}~~ *Own any part of* an office where optometry is practiced under any name other than the name on his or her license ~~{}~~ *or a fictitious or assumed name registered with the Board pursuant to NRS 636.350.*

(b) Represent himself or herself as a specialist in any optometric field unless he or she has been certified by a board for certifying specialties approved by the Nevada State Board of Optometry.

(c) Practice optometry at an office that is not registered with the Board or a mobile optometry clinic that is not certified by the Board.

2. ~~{Except as otherwise provided by subsection 3, an}~~ *An* optometrist shall display ~~{in a conspicuous place}~~ his or her license or a duplicate of his or her license to practice optometry and a current renewal card in a conspicuous manner at each office in which he or she practices optometry or has an ownership interest.

3. ~~{An}~~ *Except as otherwise provided in this subsection, an* optometrist may practice optometry ~~{outside his or her}~~ *as a substitute optometrist at an* office ~~{without displaying his or her license or a duplicate of his or her license to practice optometry at that location}~~ *that is not registered with the Board as a practice location of the optometrist but is registered with the Board by another licensed optometrist* for ~~{not}~~ :

(a) Not more than ~~{14}~~ *28* working days during the period ~~{from March 1 to February 29}~~ *in between renewals of the license, as set forth in NRS 636.250,* if the optometrist notifies the Board in writing of the day and place of such practice ~~{. The notice must be given to the Board}~~

at least 24 hours before the optometrist practices optometry at any such place. If the optometrist is not able to notify the Board within the prescribed period because of an emergency, he or she shall notify the Board as soon as possible.

(b) More than 28 working days during the period in between renewals of the license, as set forth in NRS 636.250, if he or she obtains from the Board a certificate as a substitute optometrist. An optometrist who wishes to obtain such a certificate must apply to the Board in the form prescribed by the Board. Such a certificate must be renewed before the date by which the license of the optometrist must be renewed pursuant to NRS 636.250. A substitute optometrist shall not practice optometry for more than 28 working days during the period in between renewals of the license, as set forth in NRS 636.250, at any single location that is not registered as a practice location of the optometrist unless the substitute optometrist is practicing as part of a mobile optometry clinic certified pursuant to section 4 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3636.

4. An optometrist who employs another optometrist on a temporary or permanent basis ~~is~~ *may be* subject to disciplinary action for any *violation of this chapter or chapter 636 of NRS, including, without limitation, for* unprofessional conduct ~~of~~, *by* the optometrist he or she employs which takes place during the performance of services pursuant to such employment.

5. For the purposes of this section, practicing at a location for any portion of a day constitutes practicing at that location for 1 working day.

Sec. 30. NAC 636.215 is hereby amended to read as follows:

636.215 1. An optometrist shall not ~~practice~~ *own any portion of an* optometry *practice* under an assumed or fictitious name , *including, without limitation, a name stating that he or she is “doing business as” followed by another name,* unless he or she has been issued a

certificate of registration by the Board to practice optometry under the assumed or fictitious name ~~+~~ *at the office where the optometrist practices pursuant to NRS 636.350.*

2. Before a licensee may ~~use or display~~ *own any portion of an optometry practice under* an assumed or fictitious name, ~~in any manner or medium,~~ the licensee must submit a completed application for a certificate of registration of the assumed or fictitious name on a form provided by the Board. *A separate application must be submitted for each location at which the assumed or fictitious name will be used.* The application must ~~be~~ :

(a) *List each person who holds any ownership interest in the optometry practice and the percentage of the optometry practice that he or she owns; and*

(b) *Be* accompanied by documentation from ~~the~~ *each* appropriate local governmental entity that issues business licenses *or registers assumed or fictitious names* for the county in which the optometrist proposes to *own any portion of an optometry* practice under the assumed or fictitious name, which verifies the local governmental entity has approved the use of the assumed or fictitious name by the licensee.

3. The Board will not approve an application for a certificate of registration to ~~practice~~ *own any portion of an* optometry *practice* under an assumed or fictitious name which:

- (a) Contains any reference to price or cost;
- (b) Contains any reference to “superiority,” “better” or “best”;
- (c) Contains the word “physician”; or
- (d) Is in violation of any provision of this chapter or chapter 636 of NRS.

4. *If a licensee practices under a fictitious or assumed name at a medical or surgical facility, the assumed or fictitious name must include the professional designation of the licensee.*

5. Not later than 10 working days after any percentage of the ownership of an optometry practice for which a fictitious or assumed name is registered changes, the licensee to whom the fictitious or assumed name is registered must submit a new application for the registration of the assumed or fictitious name.

6. If a licensee uses or displays an assumed or fictitious name in any manner or medium before receiving a certificate of registration to practice optometry under an assumed or fictitious name from the Board, the optometrist:

(a) Shall, upon receipt of written notice from the Board, immediately cease using the assumed or fictitious name; and

(b) Is subject to an administrative fine imposed pursuant to NRS 636.420.

Sec. 31. NAC 636.220 is hereby amended to read as follows:

636.220 ~~+~~ *Except as authorized by section 3 of Assembly Bill No. 77, chapter 568, Statutes of Nevada 2019, at page 3635, a* licensee shall not employ, either directly or indirectly, an unlicensed person to perform any services for which an optometrist's license is required by law.

Sec. 32. NAC 636.230 is hereby amended to read as follows:

636.230 For the purposes of NRS 636.295, the Board will consider the failure of a licensee to comply with any provision of *a federal, state or local law, ordinance or regulation relating to the provision of optometric services, including, without limitation, any provision of this chapter or chapter 636 of NRS*, ~~for NAC which relates to the practice of optometry~~ to constitute unprofessional conduct.

Sec. 33. NAC 636.240 is hereby amended to read as follows:

636.240 Except as otherwise provided in NRS 636.347, an agreement between a licensee and a person who is not licensed pursuant to the provisions of chapter 636 of NRS for the leasing of a building or a part thereof for use in the licensee's practice must not include a provision that:

1. Authorizes the person who is not licensed to exercise control over the operation of the licensee's practice or his or her employees in violation of the provisions of chapter 636 of NRS.

2. Authorizes the person who is not licensed to share in the profits of the licensee's practice in violation of the provisions of chapter 636 of NRS.

3. Authorizes the person who is not licensed to have access to the medical records of the licensee's patients.

4. Authorizes the licensee to locate his or her office in a part of the building where the person who is not licensed conducts business without providing a clear separation between the licensee's office and the business of the person who is not licensed.

5. Prohibits the licensee from having access to his or her office, equipment or records at any time.

6. Except as otherwise provided in NRS 636.372, authorizes or requires the amount of rent to be determined on any basis other than the fair rental value of the ~~building or a part thereof~~ *premises* to be leased ~~and any equipment to be leased~~.

7. Violates any provision of NRS or NAC which relates to the practice of optometry.

Sec. 34. NAC 636.250 is hereby amended to read as follows:

636.250 *1.* A licensee who locates his or her office in a part of a building where a person who is not licensed pursuant to the provisions of chapter 636 of NRS conducts business shall ~~construct~~:

(a) *Construct* and maintain a partition or wall in such a manner as to ensure a clear separation between his or her office and the business of the person who is not licensed ~~H~~; *and*

(b) *Maintain a separate reception area, cash drawer, scheduling system, staff, computerized system and physical space from those of the business of the person who is not licensed.*

2. *A licensee shall not:*

(a) *Use legal representation paid for or arranged by a person who is not licensed pursuant to the provisions of chapter 636 of NRS in any proceeding before the Board concerning the business relationship between the licensee and other person; or*

(b) *Except as otherwise authorized by NRS 636.347, serve as an employee or independent contractor of any person who is not licensed to practice optometry.*

Sec. 35. 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 ~~therapeutic~~ pharmaceutical agents issued pursuant to NRS 636.288.
3. Must have successfully passed the ~~Treatment~~ *Treatment* and Management of Ocular Disease ~~Examination~~ *Examination* administered by the National Board of Examiners in Optometry ~~on or after January 1, 1993.~~ *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) ~~¶The name of~~ *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, 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 a notary public attesting to the accuracy of the information.

Sec. 36. NAC 636.380 is hereby amended to read as follows:

636.380 Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders must be served upon the attorney *in the manner prescribed by NRS 636.375* and such service is effective for all purposes upon the party represented by the attorney.

Sec. 37. NAC 636.400 is hereby amended to read as follows:

636.400 A ~~¶person appearing in~~ *party to* a proceeding before the Board , *an attorney appearing on behalf of a party or any other person in attendance at such a proceeding* shall ~~¶conform to the recognized standards of ethical and courteous conduct.~~ *conduct himself or herself in a respectful manner.*

Sec. 38. NAC 636.480 is hereby amended to read as follows:

636.480 There will appear on all documents required to be served by the Board, other than decisions or orders, an acknowledgment of service or the following certificate:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy in person to) (by mailing a copy, properly addressed, with postage prepaid, to) *(by sending a copy by electronic mail, properly addressed to the person at the electronic mail address on file with the Board, to)*

Dated at this day of the month of of the year

.....

Signature

Sec. 39. NAC 636.600 is hereby amended to read as follows:

636.600 In addition to the facts mentioned in subsection 5 of NRS 233B.123, the Board may take official notice of regulations, official reports, decisions, orders, standards of records of the Board, and any regulatory agency of the State of Nevada , *any other state, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States* or any court of record.

Sec. 40. NAC 636.650 is hereby amended to read as follows:

636.650 1. The Board will consider petitions for declaratory orders or advisory opinions relating to the applicability of any statutory provision, regulation or decision of the Board.

2. ~~{All petitions}~~ *A petition* for *a* declaratory ~~{orders and}~~ *order or* advisory ~~{opinions}~~ *opinion* must be in writing using ~~{substantially the format of a}~~ *the* form prescribed by the Board.

3. Upon submission of a petition for a declaratory order or advisory opinion, the Board will ~~{, within 30 days, deny the petition in writing, stating its reasons or initiate proceedings in accordance with NRS 233B.060.}~~ *place the matter on the agenda for discussion at the next regularly scheduled meeting of the Board. If the petition is received within 30 days before the next regularly scheduled meeting of the Board, the Board may place the matter on the agenda for discussion at the meeting immediately following that meeting.*

4. *If a petition for a declaratory or advisory opinion is placed on the agenda for discussion at a meeting of the Board, the Board will consider any information relevant to the petition at that meeting. Such information may include, without limitation, oral or written testimony. After considering such information, the Board will grant or deny the petition.*

5. *If the Board denies a petition, no further action will be taken. If the Board grants a petition, the Board will issue the declaratory order or advisory opinion at its next regular meeting. The petitioner shall comply with the declaratory order or advisory opinion.*

Sec. 41. NAC 636.660 is hereby amended to read as follows:

636.660 1. A petition requesting the adoption, amendment or repeal of any regulation must be in writing using the format of a form prescribed by the Board ~~{}~~ *and must include, without limitation:*

(a) The name and address of the petitioner;

(b) The reason for the petition;

(c) The language that the petitioner is proposing to adopt, amend or repeal;

- (d) The statutory authority for the proposed adoption, amendment or repeal; and*
- (e) Any relevant information or argument in support of the petition.*

2. ~~{Within}~~ *The Board may refuse to act on a petition that does not include the information required by subsection 1.*

3. *Except as otherwise provided in subsection 2, within* 30 days of the submission of the petition, the Board will :

(a) Notify the petitioner of its decision to grant or deny the petition ~~{in writing, stating its reasons or}~~ ; and

(b) If the Board grants the petition, initiate proceedings in accordance with NRS 233B.060.

Sec. 42. NAC 636.670 is hereby amended to read as follows:

636.670 1. A prescription for spectacle lenses must specify the refractive power necessary for best vision . ~~{and contain instructions concerning the times at which the lenses are to be worn.}~~

2. A prescription for polymethylmethacrylate (Hydrophobic) contact lenses must specify the base curve, diameter and refractive power of the lenses.

3. A prescription for rigid gas permeable contact lenses must:

(a) Specify the base curve, diameter and refractive power of the lenses;

(b) Specify the:

(1) Brand name *or manufacturer* and type of lens; or

(2) The actual materials desired, with their ability to transmit oxygen; and

(c) State whether the prescription is for daily wear or for a stated maximum number of 24-hour periods.

4. A prescription for soft ~~{(Hydrophilic)}~~ contact lenses must:

- (a) Specify the base curve or equivalent, diameter and refractive power of the lenses;
- (b) Specify the:
 - (1) Brand name and type of lens; or
 - (2) The actual materials desired, with their percentage of water content and thickness; and
- (c) State whether the prescription is for daily wear or for a stated maximum number of 24-hour periods.

Sec. 43. NAC 636.680 is hereby amended to read as follows:

636.680 1. ~~{Except as otherwise provided in this section, a}~~ A copy of a prescription for a ~~{polymethylmethacrylate (Hydrophobic) contact lens,}~~ rigid gas permeable contact lens or soft ~~{(Hydrophilic)}~~ contact lens issued by an optometrist must *include the date on which the prescription expires and must* be:

- (a) Provided to the patient ~~{, upon an oral or written request from the patient.}~~
~~—(b) Released to} or~~ an authorized agent of the patient, ~~{upon a written request from the patient.}~~
~~—(c)} as required by 16 C.F.R. § 315.3; or~~
- (b) Verified to an authorized agent of the patient, ~~{upon a written request from the patient.}~~ *as required by 16 C.F.R. § 315.5.*

2. An optometrist shall not release a prescription for a ~~{polymethylmethacrylate (Hydrophobic) contact lens,}~~ rigid gas permeable contact lens or soft ~~{(Hydrophilic)}~~ contact lens to a patient, until the optometrist has:

- (a) Conducted an initial evaluation of the fit of the lens on the eye of the patient;
 - (b) Conducted any follow-up examination that the optometrist deems medically necessary;
- and

(c) Determined that a successful fit has been achieved.

3. An optometrist shall not fail or refuse to provide all the information necessary to duplicate accurately a *valid* prescription for a ~~{polymethylmethacrylate (Hydrophobic) contact lens,}~~ rigid gas permeable contact lens or soft ~~{(Hydrophilic)}~~ contact lens unless the optometrist maintains proper documentation of a sufficient clinical rationale.

4. Upon the release of a prescription for a ~~{polymethylmethacrylate (Hydrophobic) contact lens,}~~ rigid gas permeable contact lens or soft ~~{(Hydrophilic)}~~ contact lens, no changes may be made in the brand or type of lens prescribed without the issuance of a new prescription. *The brand name and type of the lens dispensed must be identical to the brand name and type of the lens prescribed.* A new prescription to make changes in the brand or type of lens prescribed must not be issued unless an optometrist has completed any evaluations or examinations that the optometrist deems medically necessary for such changes.

5. After the release of a prescription for a ~~{polymethylmethacrylate (Hydrophobic) contact lens,}~~ rigid gas permeable contact lens or soft ~~{(Hydrophilic)}~~ contact lens, the prescriber is not liable for any future changes in the fitting or dispensing of the lens by another source.

~~{6. — If a patient requests the release of a prescription for a polymethylmethacrylate (Hydrophobic) contact lens, rigid gas permeable contact lens or soft (Hydrophilic) contact lens before an optometrist has completed any evaluation or examination that the optometrist deems medically necessary, the optometrist may release a prescription for an ophthalmic lens which must indicate that the prescription is not approved for contact lenses in the manner set forth in NRS 636.387.}~~

Sec. 44. NAC 636.730 is hereby amended to read as follows:

636.730 1. The Board shall provide a certificate to administer and prescribe ~~therapeutic~~ 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”~~ *Treatment* and Management of Ocular Disease ~~Examination”~~ *Examination* administered by the National Board of Examiners in Optometry ~~on or after January 1, 1993.~~, *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 ~~therapeutic~~ 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 ~~therapeutic~~ pharmaceutical agents which may be administered or prescribed pursuant to chapter 636 of NRS

~~·~~

~~— (3) Practical in nature and had a primary focus on the examination of patients; and~~

~~— (4) Structured to maximize the interrelationship between the doctor and the patient,~~

~~emphasizing one-on-one interaction between the doctor and the patient.]~~

2. Upon completion by an optometrist of a training program which meets the requirements of paragraph (c) 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 ~~the same~~ *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 ~~therapeutic~~ pharmaceutical agents.

The certifying signatures of the ophthalmologist and optometrist must be notarized.

3. The ~~form~~ *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 ~~and~~ *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 ~~and~~ *or* optometrist ~~+~~, *as applicable*.

Sec. 45. NAC 636.080, 636.235, 636.310, 636.320, 636.330, 636.340, 636.350, 636.360, 636.370, 636.390, 636.410, 636.420, 636.430, 636.440, 636.450, 636.460, 636.470, 636.490, 636.500, 636.510, 636.520, 636.530, 636.540, 636.550, 636.560, 636.570, 636.580, 636.590, 636.610, 636.620, 636.630, 636.640 and 636.700 are hereby repealed.

TEXT OF REPEALED SECTIONS

636.080 Reexaminations. (NRS 636.125, 636.195) 1. An applicant who makes a request for reexamination to obtain a license to practice optometry must not be permitted to take more than three examinations.

2. Reexaminations must take place within 5 years after the date the applicant was initially examined.

3. An applicant who makes a request for reexamination must:

(a) If the applicant wishes to be reexamined on that part of the examination prepared by the Board, apply to the Board.

(b) If the applicant wishes to be reexamined on any part of the examination prepared by the National Board of Examiners in Optometry, apply to the National Board of Examiners in Optometry.

636.235 Violation of NRS 636.2882. (NRS 636.125, 636.295) A violation of NRS 636.2882 constitutes unprofessional conduct.

636.310 Scope. (NRS 636.125) The provisions of NAC 636.310 to 636.660, inclusive, govern all practice and procedure before the Board whenever the Board is acting as an agency, as that term is defined in NRS 233B.031.

636.320 Construction. (NRS 636.125) The provisions of NAC 636.310 to 636.660, inclusive, will be liberally construed to secure a just, speedy and economical determination of all issues presented to the Board and to carry out the purposes of chapters 233B and 636 of NRS.

636.330 Classification of parties. (NRS 636.125) 1. A party in a proceeding before the Board must be called applicant, petitioner, complainant, respondent, intervener or interested party, according to the nature of the proceeding and the relationship of the party thereto.

2. An “applicant” is a person who is applying or petitioning for any privilege, license or authority from the Board.

3. A “petitioner” is a person, other than a complainant, who is petitioning the Board for affirmative relief.

4. A “complainant” is a person who is complaining to the Board of any act or of any person.

5. A “respondent” is a person against whom any complaint is filed or investigation is initiated.

6. An “intervener” is a person, other than an original party to a proceeding, who may be indirectly and substantially affected by the proceeding, and who secures an order from the Board or presiding officer granting leave to intervene. The granting of leave to intervene or otherwise appear in any matter or proceeding is not a finding or determination of the Board that such party will or may be a party aggrieved by any ruling, order or decision of the Board for purposes of court review or appeal.

7. An “interested party” is a person who believes that he or she may be affected by a proceeding, but who does not seek to participate in the proceeding.

636.340 Participation by staff of Board. (NRS 636.125) The Board’s staff may appear at any hearing and has the right to participate as a party to the proceeding.

636.350 Permissible appearances. (NRS 636.125) At any hearing, a party named in NAC 636.330, except an interested party, is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and participate in the conduct of the proceeding. An interested party may be acknowledged by the Board for the purpose of stating his or her possible interest in the proceeding.

636.360 Entry of appearance. (NRS 636.125) A party shall enter his or her appearance at the beginning of a hearing or at any time designated by the presiding officer by giving his or her name and address and stating his or her position or interest in the proceeding to the presiding officer. This information must be recorded in the record of the hearing.

636.370 Representation of parties. (NRS 636.125) 1. A party is entitled to be heard in person or by the party's attorney or other representative.

2. An attorney appearing as counsel in any proceeding must be an attorney at law in good standing and admitted to practice before the highest court of any state. If an attorney is not admitted and entitled to practice before the Supreme Court of Nevada, an attorney so admitted and entitled to practice must be associated with the attorney appearing before the Board.

636.390 Withdrawal of attorney. (NRS 636.125) Any attorney of record wishing to withdraw from a proceeding before the Board must, in writing, immediately notify the Board or the presiding officer, the party whom he or she represented and all other parties to the proceeding of his or her withdrawal.

636.410 Captions, amendments and construction of pleadings. (NRS 636.125)

1. Pleadings before the Board must be called applications, petitions, accusations or answers.
2. The Board may, when substantial rights of the parties are not violated, allow any pleading to be amended or corrected.
3. All pleadings will be liberally construed with a view to effect justice between the parties, and the Board or presiding officer will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.

636.420 Applications. (NRS 636.125)

1. A pleading requesting a privilege, license or authority from the Board must be styled an "application."
2. An application must set forth the full name and address of the applicant and such facts or exhibits as may be required by statute or this chapter. An application must be signed by the applicant.

636.430 Petitions. (NRS 636.125) A “petition” is a pleading other than an application, accusation or answer, praying for affirmative relief, including requests for declaratory orders, advisory opinions, and requests for the adoption, amendment or repeal of any regulation. A petition must set forth the full name and post office address of the petitioner and be signed by the petitioner.

636.440 Verification. (NRS 636.125) All pleadings must be verified.

636.450 Motions. (NRS 636.125) 1. A motion is a request directed at the Board’s authority to act on a given subject.

2. All motions, unless made during a hearing, must be in writing.

3. All written motions must set forth the nature of the relief sought and the grounds therefor.

4. A party desiring to oppose a motion may serve and file a written response to the motion.

5. The moving party may serve and file a written reply only if an opposition to the motion has been served and filed.

6. A decision on the motion will be rendered without oral argument unless oral argument is requested by the Board. If oral argument is requested, the Board will set a date and time for a hearing on the motion.

636.460 Filing and availability of papers. (NRS 636.125) An original and two legible copies of all pleadings, motions or other papers must be filed with the Board. The Board may direct that a copy of all pleadings and motions be made available by the party filing them to any other person whom the Board determines may be affected by the proceeding and who desires copies thereof.

636.470 Service of process. (NRS 636.125) 1. All notices, documents, advisory opinions and declaratory orders required to be served by the Board will be served by mail, and

service thereof will be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail. Parties will be notified either personally or by certified mail of any adverse decision or order.

2. All documents required to be served by a party must be served by mail, and service thereof shall be deemed complete when a true copy of such paper or document, properly addressed and stamped, is deposited in the United States mail.

636.490 Filing and contents of accusation. (NRS 636.125) 1. Upon its own initiative, or following receipt of a verified complaint, the Board may cause an accusation to be filed alleging one or more grounds for disciplinary action arising pursuant to NRS 636.295. Facts constituting grounds for disciplinary action must be stated with such particularity as to enable the respondent to identify the charges against him or her.

2. All applicable decisions, statutes, rules and regulations, or orders of the Board must be cited in the accusation, together with the dates on which the acts or omissions complained of allegedly occurred.

3. If more than one cause of action is alleged, each cause of action must be stated and numbered separately.

636.500 Request for hearing; filing answer. (NRS 636.125) A party or parties against whom an accusation is filed must, within 15 days of receipt of the accusation, notify the Board in writing whether a hearing on the accusation is requested. Failure to request a hearing will be deemed a waiver of the right to a hearing. However, the Board may grant a hearing notwithstanding the fact that the hearing was not requested within the 15 days allowed. If a hearing is requested, the respondent must file an answer within 20 days of receipt of the accusation.

636.510 Quorum required; notice and location of hearing. (NRS 636.125)

1. Hearings will be held before the Board. A quorum of the Board is sufficient to convene any hearing.

2. Notice of the hearing will be served at least 20 days before the time set therefor. A hearing which has previously been continued may be reset on notice of not less than 10 days.

3. Hearings will be held at a place in the State designated by the Board in the notice of the hearing.

4. Notice of the hearing will include:

(a) A statement of the time, place and nature of the hearing.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and regulations involved.

(d) A short and plain statement of the matters asserted.

636.520 Continuances. (NRS 636.125) The Board may, either before or during a hearing, and on proper showing, grant a continuance to allow submission of additional proof of any relevant matter.

636.530 Failure of party to appear. (NRS 636.125) 1. If a party fails to appear at a hearing scheduled by the Board and no continuance has been requested or granted, the Board may hear the testimony of witnesses who have appeared and consider and dispose of the matter on the basis of the evidence before it.

2. If, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the Board or fails to request a continuance thereof, the party may, within a reasonable period, not to exceed 15 days after the date of the hearing, apply to the Secretary of the Board to reopen the proceedings and the Board, upon finding such cause sufficient and

reasonable, will immediately fix a time and place for hearing and give such party notice thereof. At the time and place fixed, the person may testify on his or her own behalf or present such other evidence as may be beneficial to his or her cause.

3. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the Board.

636.540 Conduct at hearings. (NRS 636.125) All parties to a hearing, their counsel and spectators shall conduct themselves in a respectful manner.

636.550 Preliminary procedure. (NRS 636.125) The presiding member of the Board will call the proceeding to order, take the appearances and act upon any pending motions or petitions. The parties may then make opening statements.

636.560 Testimony must be under oath. (NRS 636.125) All testimony to be considered by the Board in any hearing, except matters noticed officially or entered by stipulation, must be sworn testimony. Each witness must swear or affirm that the testimony he or she is about to give in the hearing before the Board will be the truth, the whole truth and nothing but the truth.

636.570 Order of presentation. (NRS 636.125) 1. Evidence at the hearing will ordinarily be received from the parties in the following order:

- (a) Upon petitions:
 - (1) Petitioner;
 - (2) Board's staff;
 - (3) Intervener; and
 - (4) Rebuttal by petitioner.
- (b) Upon accusations:
 - (1) Board;

- (2) Respondent; and
 - (3) Rebuttal by the Board.
2. This order of procedure may be modified by the Board or presiding board member.
 3. Closing statements by the parties may be allowed by the Board or presiding Board member.

636.580 Consolidation of proceedings. (NRS 636.125) The Board may consolidate two or more proceedings into one hearing whenever it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by such consolidation. At any consolidated hearing, the presiding Board member will determine the order of procedure.

636.590 Stipulations. (NRS 636.125) With the approval of the Board, the parties may stipulate as to any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statement shown upon the record. Any such stipulation will be binding upon all parties to the stipulation, and it may be treated as evidence at the hearing. The Board may require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

636.610 Briefs. (NRS 636.125) The Board may require that briefs be filed and accompanied by proof of service pursuant to NAC 636.480.

636.620 Orders and decisions of Board. (NRS 636.125) 1. A proceeding stands submitted for decision by the Board after the taking of evidence, the filing of briefs or the presentation of such oral argument permitted by the Board.

2. A decision or order which is adverse to a party in any hearing will be in writing or stated in the record and will include findings of facts and conclusions of law.

3. Orders or decisions will be rendered within 90 days after the hearing unless a shorter time is required by statute.

4. Decisions and orders of the Board will be served by sending a copy thereof by certified mail to the parties of record or their representatives or by personal service. Additional copies of orders may be obtained upon written request.

636.630 Rehearings. (NRS 636.125) 1. Within 15 days after the rendering of a decision or order by the Board, the aggrieved party may apply for a rehearing by filing a written petition for rehearing setting forth the grounds for rehearing.

2. The Board will act upon the petition within 30 days after the effective date of the order or decision upon which the rehearing is requested. If no action is taken by the Board within the time specified, the petition will be deemed denied and the Board's decision is final for the purposes of judicial review.

3. The Board, on its own motion, may order a rehearing within 30 days of its decision if mistake, fraud or misconception of facts existed in the forming of its original decision.

4. Rehearings will be conducted in accordance with the procedure for hearings.

5. The filing of a petition for rehearing does not excuse compliance with the order or decision or suspend the effectiveness of the order unless otherwise ordered by the Board.

636.640 Record of case. (NRS 636.125) Upon the filing of a petition for judicial review of a final decision in a contested case, the Board will cause a record of the case to be made in accordance with subsection 7 of NRS 233B.121 for transmittal to the reviewing court in accordance with NRS 233B.131. Persons desiring copies of the record may obtain the copies from the office of the Board upon payment of the fees fixed therefor.

636.700 Mailing of fees and documents to Board. (NRS 636.125) Any fee or document:

1. That is required or permitted by the provisions of this chapter or chapter 636 of NRS to be filed with or paid to the Board or its staff; and

2. That is mailed to the Board,

↳ must be sent by registered or certified mail.