

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.

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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

<del>[1.]</del> (a) Examinations.....	\$250
<del>[2.]</del> (b) <del>Applications for the issuance of a</del> <del>1-year license</del> .....	<del>\$600</del>
<del>3. Renewal</del> <i>Initial issuance or renewal</i> of a license.....	\$1,200
<del>[4.]</del> (c) Granting certification or issuing certificates.....	\$1,000
<del>[5.]</del> (d) Licensing of extended clinical facilities and other practice locations.....	\$500
<del>[6.]</del> (e) Individually verifying licensure or disciplinary status.....	\$100
<del>[7.]</del> (f) Late fee.....	\$1,000
<del>[8.]</del> (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.)

