



STATE OF NEVADA

BOARD OF DISPENSING OPTICIANS

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Minutes of Public Workshop

March 15, 2013

The Public Workshop of the Nevada Board of Dispensing Opticians was opened by Cindy Kimball, executive director, at 3 p.m. via videoconference at Truckee Meadows Community College, 7000 Dandini Blvd., Sierra Bldg. Room 100, Reno, Nevada 89512 and via videoconference to the College of Southern Nevada, 6375 W Charleston Blvd, Room H105, Las Vegas, Nevada 89146.

- 1. Public Comment:** Erin McMullen, representing the National Association of Optometrists and Opticians (NAOO), on behalf of Luxottica and LensCrafters. McMullen stated NAOO is a national organization representing the retail optical industry and read written comments into the record. McMullen began with general comments, stating there is a critical shortage of licensed opticians in Nevada, and the problem is compounded because the Board of Dispensing Opticians has failed to articulate the elements of ophthalmic dispensing and failed to propose any rule defining modern-day ophthalmic dispensing as part of this rulemaking process. She added that uncertainty creates barriers to entry, and these proposed rules fail to address or remedy that uncertainty, adding that the Board was proposing rules that would create further uncertainty, complicate the apprenticeship or licensing process, discourage persons from entering the optical profession, or which would expand regulation of ophthalmic dispensing in Nevada. McMullen stated that in regard to the proposed premise inspection, the Board currently has no statutory authority to inspect optical stores, and no authority to adopt a rule authorizing such inspections. In Section 5- NAC 637.140 (2), she said by proposing the change, the Board was attempting to enlarge the statutory definition of ophthalmic dispensing to include the handling of prescription optical products and the discussion of prescription optical products as activities that require licensure, which would preclude lawful activity, including constitutionally protected speech and association rights. She stated that laboratory work does not fall within the statutory definition of ophthalmic dispensing. In Section 11, NAC 637.230(3) McMullen stated the requirement to provide notice of a licensee's change of workplace should remain at 30 days, consistent with the existing change of business and home address provisions of NAC 637.230(2). Regarding Section 14, NAC 637.623(1)(a), McMullen said the existing requirement to complete 14 hours of continuing education as a condition of renewal for apprentice licenses should be maintained, as it is the only legislatively authorized educational or career progression that the Board may impose as a condition of apprentice renewal. Regarding Section 16, NAC 637.287, she stated that the proposed change should be withdrawn in its entirety, because the Board has no statutory authority to require that apprentices make "orderly progress" towards completion of apprenticeship as a condition of renewal. She stated that for the same reason, Section 17, NAC 637.295, the existing rule should be unchanged. Regarding Section 20, NAC 637.340 6, McMullen requested the Board explain its rationale for eliminating the existing right of intervention. She added that unless the right of intervention in proceedings before this Board is provided for in other Nevada statutes, NAOO submits that the existing rule must be retained. Regarding Section 24, NAC 637.440(2), McMullen stated the Board should explain its rationale for eliminating the existing requirement, adding that unless the right to adequate notice and particularity is provided for in other Nevada statutes, NAOO submits that the existing rule must be retained.

- 2. Adjournment:** After calling for further public comment, and receiving none, Cindy Kimball closed the workshop at 3:38 p.m.