

STATE OF NEVADA



Board of Dispensing Opticians

Draft Minutes of Public Meeting

December 13, 2018 at 5:00 p.m.

Board meeting took place at:

Office of the Nevada Board of Dispensing Opticians:
4747 Caughlin Parkway, Conference Room
Reno, Nevada 89519

Board Members Present:

Jennifer Benavides, Acting President
Mark Myers, Acting Secretary
Marilyn Brainard, Acting Treasurer
Tamara Sternod, Member

Board Staff Present:

Corinne Sedran, Executive Director
Greg Ott, Board Counsel

1. Call to order

Board President Jennifer Benavides called the meeting to order at 5:04 p.m. and called roll.

2. Public comment

There was no public comment.

3. Approval of previous board meeting minutes (for possible action):

October 11, 2018 Board Meeting

Motion: Marilyn Brainard moved approval of the minutes as presented.

Vote: Motion passed unanimously.

4. Announcement of newly licensed Ophthalmic Dispensers:

676 Penny Morton

677 Joy Myers

5. Review and decision on prior experience credit requests (for possible action):

a. **Arellano, Seyda**

Motion: Tamara Sternod moved to grant the applicant three years prior experience credit.

Vote: Motion passed unanimously.

b. **DeMasi, Joseph**

Motion: Ms. Sternod moved to grant the applicant three years prior experience credit, then amended her motion to approve the applicant's prior education as fulfilling his education requirements for licensure.

Vote: Motion passed unanimously.

c. **White-Montoya, Denise**

Motion: Ms. Benavides moved to grant the applicant two years prior experience credit.

Vote: Motion passed unanimously.

d. **Whitford, Dana**

Motion: Ms. Sternod moved to waive the applicant's contact lens training hours requirement based upon her prior education.

Vote: Motion passed unanimously.

6. Report and recommendations by Committee on Continuing Education Course Providers (for possible action)

This item was tabled.

7. Report and recommendations by Committee on Apprentice Training Requirements (for possible action)

The committee chair had no items to report.

8. Report and recommendations by Committee on Licensure by Endorsement (for possible action)

This item was tabled.

9. Discussion and decision on policies and enforcement of NAC 637.144: requirements for managing ophthalmic dispensing (for possible action)

Discussion: Ms. Benavides explained the Board's statute has always stated a person must be

licensed in order to manage an ophthalmic dispensing business. She asked for board attorney Greg Ott's opinion on how to clear up the detail pertaining to "business managers" included in the Board's regulations. Mr. Ott explained the regulations address two different types of manager: an ophthalmic manager and a business manager; they also pertain to three different types of people: unlicensed persons, licensed apprentices, and licensed opticians. The regulation was amended in 2018 to make it very clear apprentices cannot act as business managers, but unlicensed persons were not addressed. The historic interpretation of the regulation is unlicensed persons can act as business managers; if the intent of the board is to forbid unlicensed persons from acting in this role, the board should pursue a regulation change to that effect. Ms. Sternod asked how such a regulation would affect a business that employs district managers above ophthalmic managers. Ms. Benavides stated the intent would be to regulate on-site managers only. The on-site business manager should ideally be acting as the ophthalmic manager as well.

10. Discussion and decision on apprentice license surrender policy; renewal eligibility of apprentices who have surrendered their licenses (for possible action)

Motion: Ms. Benavides moved to accept the voluntary surrender of apprentice licenses; the surrenders will take effect on the date they are submitted to the board office.

Vote: Motion passed unanimously.

11. Discussion of licensing numbers and exam pass rates; discussion and decision on exam retake policies (for possible action)

Discussion: Ms. Sedran explained the exam pass rates have improved slightly over the past several months. Ms. Benavides stated the reason for improvement may be that people have become more familiar with the process. She suggested the Board reconsider its policy of requiring examinees to wait six months to retake an exam. She would like them to be able to retake the Advanced and Practical Exams every three months. Ms. Sedran stated the ABO would need to approve this change before it could be implemented.

Motion: Ms. Sternod moved to amend the board's exam retake policy to allow examinees to retake a failed Advanced or Practical Exam after three months, rather than six.

Vote: Motion passed unanimously.

12. Review and discussion of BDR 54-366: Nevada Optometry Board Bill Draft Request; development of official response/comments (for possible action)

Discussion: Ms. Sternod directed the Board's attention to the portion of the bill addressing contact lens fitting. She is concerned the bill will remove opticians' ability to perform contact lens fitting. Ms. Sedran explained current optometry law requires the initial fitting of contact lenses to be performed by an optometrist; this part of the bill is not new language. Mr. Ott said the board should correspond with the Optometry Board to ensure the two laws are not in conflict. Ms. Sternod stated the bill will remove the ability of opticians to recreate a prescription from a pair of lenses except in emergency situations. Ms. Sedran stated she would convey the concerns of the board members to the Optometry Board and report back.

13. Financials (for possible action):

Review and acceptance of **September and October 2018** financial reports

Motion: Ms. Brainard moved to accept the financial reports as presented.

Vote: Motion passed unanimously.

14. Executive Director's report

Ms. Sedran stated online license renewals should be up and running on December 15th.

The Board has retained Neena Laxalt as its lobbyist for the upcoming legislative session; Ms. Sedran will begin adding legislative updates to meeting agendas.

15. Board Counsel's report

Board Counsel had no items to report.

16. Future agenda items (for possible action)

Ms. Benavides suggested an item to discuss reducing the required length of apprenticeships to allow people to complete the program in less time.

17. Public comment

Kevin Benson, attorney for Luxottica, said he concurred with Mr. Ott's conclusion that unlicensed persons can be business managers and the board would need to pursue a regulatory change to require business managers be licensed; the law already states a licensed person needs to oversee ophthalmic functions. If there is going to be an enforcement checklist the board will use during workplace inspections, the board should share this list with the businesses. Being in charge of ophthalmic dispensing at the business does not mean the person in charge must be present every minute of every day. Mr. Benson stated the board cannot accept the voluntary surrender of apprentice licenses; the law states their licenses expire on January 31st of every year. Ms. Sedran stated the voluntary surrenders had been submitted by those individuals who wanted to continue in their management positions after the regulation change went into effect. If they are still licensed as apprentices, they are breaking the law by working as business managers.

Brent Hanson, License 601, suggested that future board meetings take place via teleconference so licensees in both Reno and Las Vegas can call in and hear what is being discussed.

Jennifer Ryan, regional manager for LensCrafters, stated the board's laws clearly pertain to dispensing and not the running of a business; a business manager should be an expert in running a business and an ophthalmic manager should be an expert on dispensing. There is no reason a business manager should be required to hold a license.

There was no further public comment and Ms. Benavides closed the meeting at 6:30 p.m.