

STATE OF NEVADA



Board of Dispensing Opticians

Minutes of Public Meeting: December 8, 2022 at 5:00 p.m.

Board Members Present:

Jennifer Letten, President
Mark Myers, Vice President
Chris Esparza, Member
Jennifer Brusven, Member

Board Staff Present:

Corinne Sedran, Executive Director
Laena St-Jules, Deputy Attorney General
Lea Tauchen, Board Lobbyist
Tray Abney, Board Lobbyist

Board Members Absent:

Cris Esparza

1. Call to order

Ms. Letten called the meeting to order and called roll at 5:02 p.m.

2. Public comment

Jim Morris, Director of the American Board of Opticianry, said he would be available to provide updates under Item 11.

Lisa Stewart, representing the Opticians Association of Nevada (formerly the NAOD), said they are making changes to the association. Along with a new name, there is a new website (opticiansassociationnevada.org) that will offer education, a job board, connections to the ophthalmic program at CSN, and links to other opticianry organizations across the country. The OAN is working to build a stronger association to strengthen the profession and licensure across the state and across the country. Membership to the OAN will be available on the website soon.

3. FOR POSSIBLE ACTION: Approval of previous board meeting minutes

October 13, 2022 Board Meeting

Motion: Ms. Letten moved to approve the minutes as presented.

Vote: The motion passed unanimously.

4. FOR POSSIBLE ACTION: Election of Board Officers: **President, Vice President, Secretary, and Treasurer**

Discussion: Ms. Sedran said she prepared a roster of proposed Board officers, based on the responses she received from the board members regarding their interest in each office: Jennifer Letten, President; Jennifer Brusven, Vice President; Mark Myers, Secretary; Jennifer Letten, acting Treasurer.

Motion: Ms. Letten moved to approve the proposed roster.

Vote: The motion passed unanimously.

Ms. Letten said she would be taking agenda items out of order and proceeded to Item 6. After Item 6, the Board considered Items 8 and 9 before returning to Item 5.

5. FOR POSSIBLE ACTION: Hearing for the adoption of **R101-22**

Ms. Letten called the hearing to order at 5:15 p.m. She confirmed the other board members had reviewed the written comments submitted to the Board prior to the meeting. and then called for public comment.

Wallace Lovejoy, Chairman of the National Association of Optometrists and Opticians (NAOO), directed the Board's attention to the letter the NAOO submitted to the Board prior to the hearing and spoke in favor of the changes to the proposed regulation recommended in that letter. Ms. Letten asked Mr. Lovejoy to clarify whether the NAOO represents optometrists and opticians. Mr. Lovejoy stated his organization represents eyecare offices and optical dispensaries with over 80 locations in Nevada; these offices and dispensaries contract with or employ licensed opticians; the NAOO does not claim to represent individual optometrists and opticians. Ms. Letten asked whether Warby Parker is a member of the organization; Mr. Lovejoy confirmed Warby Parker is a member of the NAOO but said the company does not pay for their assistance. Mr. Lovejoy believes the Board has exceeded its authority with the current version of the proposed regulations and would like the board members to consider the revisions recommended by the NAOO prior to adopting them.

Christopher Grimm, representing Warby Parker, said he appreciates the Board's ongoing efforts on the proposed regulations. Their company has had numerous discussions with the Board prior to the hearing to try to find common ground. The Board made a number of amendments to the regulation on an ad hoc basis at its workshop, but an updated version of the regulation was not provided to the public. There are a number of areas where the regulation supersedes the Board's statutory authority; some sections of the statute that do not grant the Board authority to create any regulation necessary to enforce those sections. Any other issues Warby Parker has with the regulations it has conveyed to the Board over the past 18 months.

James Morris, representing the American Board of Opticianry, said he believes the proposed regulation is necessary to regulate the actual act of dispensing; shipping the product to another state does not negate the need to have qualified, competent opticians checking the product for accuracy. Warby Parker knew the rules pertaining to ophthalmic dispensing in Nevada when it moved its facility here and is now trying to change those rules to benefit its business. The rules were set up to protect the public and the proposed regulations are appropriate and necessary to that purpose.

At the conclusion of spoken comment, Ms. Letten proceeded to review written public comment and provided an overview of each comment received and her responses. She then asked if any other Board members had comments or discussion to add. Mr. Myers said Ms. Letten had thoroughly addressed all comments and concerns and he was ready to proceed. Ms. Brusven agreed the Board

had covered all points requiring review and discussion.

Ms. Sedran provided an overview of the revisions to the draft regulation the Board had discussed at the regulation workshop. Ms. St-Jules said, in her opinion, none of the revisions amounted to a substantive change that would require an additional workshop or hearing. The Board members stated they agreed with the proposed revisions.

Motion: Ms. Letten moved to adopt the proposed regulation with the revisions just discussed.

Vote: The motion passed unanimously.

Kyler Lund, Licensed Optician 657, said he is in support of the proposed regulations and appreciates the Board's efforts to protect the ophthalmic dispensing profession in Nevada.

Ms. Letten adjourned the hearing at 5:58 p.m.

The Board proceeded to Item 7 of the regular meeting agenda at the conclusion of Item 5.

6. FOR POSSIBLE ACTION: Confirmation of newly licensed Dispensing Opticians

753 Jolene Stratton

757 James Lai

754 Qaisar Khan

758 Erica Yi

755 Ashley Payne

759 Casey Hansen

756 Jeffrey Zeitler

760 Carlos Umana

Ms. Sedran announced the names of the newly licensed Dispensing Opticians.

Motion: Ms. Brusven moved to confirm the new licenses.

Vote: The motion passed unanimously.

7. FOR POSSIBLE ACTION: Report and recommendations on apprentice education programs by assigned board member; assignment of projects

a. Re-review of approved apprentice home-study/online education programs

Discussion: Ms. Sedran said she would like to reassign review of the NAO Ophthalmic Home Study Program to Ms. Brusven, as she is already reviewing the accompanying CLSA Contact Lens Program; another program (Item c), has been presented for review and she has asked Mr. Myers to review the new program. Ms. Letten said it would be preferable for all the Board members to review each program. Ms. Sedran said she would need the ability to send the materials to Board members for review between meetings.

Motion: Ms. Letten moved to delegate the assigning of Board members to review education programs to the Executive Director; the Director may assign these projects outside of meetings.

Vote: The motion passed unanimously.

Discussion: Ms. Brusven updated the Board on her review of the CLSA Contact Lens Program. The entire program is now administered online, with an exam given at the end of each chapter. Exams are graded immediately, and scores are sent electronically. She is still in the process of reviewing each chapter and taking the exams.

b. Review of Commission on Opticianry Accreditation (COA)

Mr. Esparza, the reviewing Board member, was not present; Ms. Letten tabled this item.

c. Review of Optical Training Institute (OTI) Optician Development Program

Ms. Letten tabled this item.

8. FOR POSSIBLE ACTION: Report and recommendations on continuing education courses and

providers by assigned board member
Ms. Letten did not have any items to present.

9. FOR POSSIBLE ACTION: Report and recommendations on Optometry Board legislative initiatives by assigned board member
Ms. Brusven did not have any items to present.

10. FOR POSSIBLE ACTION: Lobbying and legislative updates and initiatives
Tray Abney with the Abney Tauchen Group presented the updates. Nevada elections have concluded and a new Governor, Joe Lombardo, will be sworn in January 3rd; he will only have a couple of weeks to present a new budget and has set up several transition teams and committees based around specific interests and goals. The Democrats picked up another seat in the Senate and now have a 13-8 majority (one vote short of a supermajority) in that house, and also have a supermajority of 28-14 in the Assembly. Both the Assembly and Senate have begun naming some of their committee chairs; the Assembly has named a chair and vice-chair of the Commerce and Labor Committee, which is the committee with which the Board will be working on its bill; the Senate has also named both chairs, as well as all members, of that Committee. The Abney Tauchen Group is still working on securing a sponsor for the Board's bill and has been speaking with leadership in both Commerce and Labor Committees, and on both sides of the political aisle.

11. FOR POSSIBLE ACTION: Discussion and updates with representative for the American Board of Opticianry
Mr. James Morris provided the Board with updates. He gave an overview of the organization's exam statistics for 2022:

ABO Basic Exam: Nevada has a 66% pass rate, which is slightly higher than the national pass rate of 62%, and what would be expected in a state that maintains higher-than-average educational standards.

ABO Practical Exam: Nevada pass rate is 78%; this exam is only given once a person passes the Basic Exam, so the pass rate is expectedly higher, especially in a state that requires hands-on training.

ABO Advanced Exam: Nevada pass rate is 66%, which is much higher than the national rate of 52%; again, owing to the higher education and training standards in Nevada.

NCLE Basic Exam: Nevada pass rate is 56%, exactly the same as the national rate.

NCLE Practical Exam: Nevada pass rate is 90%, which is higher than the national rate of 71%, however, the data may be skewed because not as many people take this exam.

NCLE Advanced Exam: Nevada pass rate is 40%.

The ABO is constantly reviewing and scrutinizing its exam contents and processes. It undertakes repetitive job-task analyses for each one of its exams, which costs about \$250,000 per analysis, with each exam having a 5 to 7 year lifespan. This amounts to between \$500,000 and \$750,000 per exam for the lifespan of that exam, to ensure the proper job tasks and skilled are being examined. The ABO is also reviewing the currently available educational resources and is increasing its efforts in that area. Ms. Brusven asked Mr. Morris for the national pass rate for the NCLE Advanced Exam; Mr. Morris said the national rate is 37%; Nevada pass rates have been trending upward on all exams over the past several years.

Mr. Morris said Mr. Randy Smith, ABO Director of Exams, was also on the line to answer any questions. Ms. Sedran asked whether the ABO plans to continue offering virtual testing and if other states have continued to allow remote exams. Mr. Smith said the virtual exams continue to grow in popularity every year; test takers appreciate being able to take the exams in their own homes, and

those who live in remote areas don't have to worry about driving several hours to a testing center. The exams have been working very well, and statistically, pass rates are within 1 or 2 points difference, regardless of whether the exam was taken remotely or at a testing center.

12. FOR POSSIBLE ACTION: Executive Director's report

a. Financial report

Ms. Sedran said she had submitted the Board's FY22 balance sheet to the LCB and the Governor's Office, as required. All the Board's accounts balanced correctly, and the Board stayed well within its budget for the year. She will be able to update the Board at the next meeting on its FY23 income, as of the conclusion of 2023 license renewals, and give a clearer picture of the Board's current financial condition.

b. Office and licensing updates

The Board currently licenses 367 opticians (active licenses), with 20 new licenses added so far in 2022 (up from 12 in 2021); the Board licenses 175 apprentices, with 74 new licenses added so far in 2022 (up from 66 in 2021).

c. General updates

Work on the online Laws and Ethics exam is still underway and the exam is not quite ready to go live; the project is complete, but the web team hit some snags launching it on the website; it should be active by early next year. License renewals are still scheduled to open online December 15th, and reminder emails will be sent out next week.

13. Board member comment and future agenda items

There was no board member comment.

14. Public comment

Ms. Letten thanked everyone for attending and adjourned the meeting at 6:23 p.m.