

STATE OF NEVADA



Board of Dispensing Opticians

Minutes of Public Meeting: April 25, 2023 at 5:00 p.m.

Board Members Present:

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

Board Staff Present:

Corinne Sedran, Executive Director
Greg Ott, Chief Deputy Attorney
General, standing in for Laena St-Jules
Michael Cabrera, Board Counsel

1. Call to order

Ms. Letten called the meeting to order and took roll at 5:03 p.m. Mr. Myers was not yet in attendance but there was a quorum of board members present to conduct business.

2. Public comment

Ms. Letten said the Board had received and reviewed public comments submitted prior to the meeting.

Donna Hatch said she would be speaking on her own behalf as an optician. She appreciates that the Board is considering eliminating the NCLE Advanced Exam as one of its licensing requirements. Many opticians in other states do not perform contact lens fittings and this requirement prevents them from transferring to Nevada. The Basic NCLE Exam is sufficient to ensure an optician can safely dispense contact lenses. Nevada is currently the only state that requires the NCLE Advanced Exam.

Jeff Zeitler said he is licensed as a dispensing optician in both Nevada and Washington. When he graduated from Seattle Central College, he was required to wait three years to be eligible to take the Advanced NCLE Exam because it is not a requirement for licensure in Washington. The Board should focus on educating its licensees in preparation to take the Advanced ABO and NCLE Exams, rather than lowering its standards by removing the NCLE Advanced requirement. Applicants who take the exams immediately after completing their education requirements are more likely to pass them. Requiring the Advanced Exams for licensure gives licensees in other states more opportunities to take them because the waiting period is removed.

Jim Morris, Executive Director of the American Board of Opticianry, said the ABO does not have a policy requiring licensees in other states to wait three years after taking the Basic Exams before taking the Advanced Exams; the ABO allows each individual state to set their own policy regarding exam requirements. Nevada applicants do not have a waiting period before they are eligible to take the Advanced Exams. The pass rate for Nevada applicants taking the Advanced Exams is now at around 60%, which is comparable to the pass rate for the Basic Exams.

Mr. Myers joined the meeting at 5:12 p.m.

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

March 28, 2023 Board Meeting

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

Vote: The motion passed unanimously.

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

766 Margie Alfaro

767 Ying Shott

768 Edith Pascual

769 Alondra Morga-Monarrez

770 Margleny Arteaga

Motion: Ms. Letten moved to confirm the licensing of the new opticians.

Vote: The motion passed unanimously.

5. FOR POSSIBLE ACTION: Review and approval of report on board regulations, created pursuant to **Sections 1 and 2 of Executive Order 2023-003**

Ms. Sedran gave a review of the report and recommended revisions to NAC Chapter 637 to be submitted to the Governor's Office. Ms. Brusven discussed her recommended revisions to NAC 637.241(1), which requires an optician to have certain equipment on site when dispensing. Ms. Sedran discussed changes to requirements for ophthalmic managers. Ms. Letten said the new language pertaining to management is more cut-and-dried and she would like to approve it as presented.

Motion: Ms. Brusven moved to approve the recommended revisions to NAC Chapter 637, including the most recent amendments. She then amended her motion to include approval of the informational report required pursuant to Executive Order 2023-003, subject to any final edits suggested by the Board's Deputy Attorney General.

Vote: The motion passed unanimously.

6. FOR POSSIBLE ACTION: Lobbying and legislative updates and initiatives

Mr. Tray Abney and Ms. Lea Tauchen, lobbyists for the Board, gave updates on the legislative session.

a. Discussion and possible direction on SB 106

Mr. Abney explained SB 106 is sponsored by Heidi Gansert on behalf of Warby Parker. The bill received a hearing and work session in the Senate and was heavily amended before passing out of the Senate by a unanimous vote on the floor. It is now on its way to the Assembly. After amendment, the bill now only addresses out-of-state sales, and states the provisions of NRS Chapter 637 do not apply to these sales, or any design or manufacturing in conjunction with such sales. Ms. Sedran said even though the bill has been cut down quite a bit, the current version

would still completely eliminate the Board's oversight of ophthalmic products sold to out-of-state consumers. Mr. Abney said the Board would still oversee all Nevada sales, including online sales, but not sales originating out-of-state.

Ms. Letten reopened this agenda item after discussion during public comment at 6:08 p.m.

Motion: Ms. Letten moved to formally oppose the current version of SB 106.

Vote: The motion passed unanimously.

b. Discussion and possible direction on AB 415

Mr. Abney explained AB 415 is sponsored by Angie Taylor on behalf of the Board. This is a major cleanup bill to amend and clarify all statutes pertaining to ophthalmic dispensing. The bill is very long as it contains revisions to the entire NRS Chapter 637, and the Board also presented extensive amendments during its hearing by the Assembly Committee on Commerce and Labor. It came out of the Assembly Committee, as well as off the Assembly Floor, by unanimous vote, and will now be moving to the Senate. Mr. Abney and Ms. Tauchen will now begin working with Assemblywoman Taylor and Commerce and Labor Committee Chair Pat Spearman on scheduling a hearing for the bill by the Senate Committee.

c. Discussion and possible direction on other legislative initiatives and general legislative updates

Mr. Abney said several other bills have been introduced this session that may have an impact on the licensing boards. One of the most significant is sponsored on behalf of the Governor and would create an umbrella office within the Department of Business and Industry to coordinate various activities of all of the State boards and commissions. At this time, the bill does not appear to directly eliminate any of the powers or responsibilities of the individual boards.

7. FOR POSSIBLE ACTION: Report and recommendations on apprentice education programs by assigned board member(s):

a. **Contact Lens Society of America:** Contact Lens Volumes I and II

Ms. Brusven said the CLSA is undergoing an educational expansion and there will be improvements to the program soon. She will resume her review of the program once this legislative session concludes.

b. **Optical Training Institute (OTI):** Optician Development Program

Ms. Sedran said a representative of the program notified her they are working on updates and sent new login information so Ms. Letten can review the changes. The OTI would like the Board to make a decision on the program at the next meeting, once Ms. Letten has had time to review the new content.

8. FOR POSSIBLE ACTION: Discussion and decision on requirement of NCLE Advanced Certification for licensure as a Dispensing Optician

Ms. Sedran said the Governor has made it clear to the boards that they must begin offering license reciprocity to out-of-state applicants if they are not already doing so. License reciprocity is also a major area of interest for legislators every session. The Board's current requirement that applicants pass the NCLE Advanced Exam prevents the Board from offering reciprocity as no other state requires the exam, therefore, no other state has licensing requirements comparable to Nevada's.

Ms. Letten clarified that license reciprocity means the Board honors a license from another state as being comparable to a Nevada license, without imposing additional requirements for licensure. The Board is not proposing any changes to its current licensing requirements other than removal of the NCLE Advanced Exam. Since the Board adopted the exam in 2016, no other state has opted to require it for licensure, however, other states have adopted the ABO Advanced Exam, which the Board will continue to require. She recommends the Board eliminate the NCLE Advanced requirement and offer a full year (14) of contact lens-approved continuing education credits to those

licensees and applicants who already passed the exam as part of their licensing requirements.

Ms. Brusven said she agrees with the recommendation to remove the NCLE Advanced Exam as a requirement for licensure as an optician. As a specialty contact lens fitter, she utilizes the knowledge tested by the NCLE Advanced Exam daily, however, it would be in the best interest of the profession as a whole in Nevada to remove the requirement. She would like the Board to find a way to bring more specialty contact lens fitters into the state, and ensure they are qualified. Ms. Letten clarified that Nevada opticians' scope of practice would not diminish in any way due to removing the exam requirement; opticians will still be allowed to fit and dispense contact lenses as before.

Mr. Esparza said he is also in favor of removing the NCLE Advanced requirement, as it would bring the Board's requirements into closer alignment with those of other states, as well as into compliance with the Governor's orders. Mr. Myers said he supports creating license reciprocity with other states; the Board may have a different discussion down the road if other states adopt the NCLE Advanced Exam, but for now, he is in favor of eliminating the requirement.

Motion: Ms. Letten moved to eliminate the Advanced NCLE Exam as a requirement for licensure as a dispensing optician in Nevada, and to grant 14 contact lens-approved continuing education credits to applicants and licensees who already took and passed the exam as part of their requirements.

Vote: The motion passed unanimously.

9. FOR POSSIBLE ACTION: Report and recommendations on continuing education courses and providers by assigned board member
Ms. Letten did not have any items to report.

10. FOR POSSIBLE ACTION: Discussion and updates with representative for the American Board of Opticianry
Mr. Jim Morris, Executive Director for the ABO, said the ABO is actively involved with the lobbying efforts in favor of AB 415, and in opposition to SB 106. One of the ABO's main points of concern with SB 106 is the term "intended wearer outside the state of Nevada," which is not defined in the bill. It does not specify whether this includes a consumer who resides in another state but purchases a pair of glasses while visiting Nevada. The ABO will continue to be available to assist the Board with its legislative efforts, as well as any concerns related to the licensing exams. Ms. Letten thanked Mr. Morris and the ABO for all the assistance they have given the Board with its lobbying efforts during this legislative session, as well as over the years with transitioning to a national exam model of licensure.

11. FOR POSSIBLE ACTION: Discussion and decision on performance bonus for Executive Director
Ms. Letten said that Ms. Sedran is a salaried employee of the Board and does not receive overtime compensation. Since early January when the Executive Orders were issued, and February 6th when the 82nd legislative session began, Ms. Sedran has been required to participate in calls and meetings, and to prepare reports outside of normal business hours, and will continue to do so for the remainder of the session, which lasts 120 days and concludes on June 6th. As this has imposed significantly on her personal time, Ms. Letten proposed granting Ms. Sedran a performance bonus for the additional work time required between January and June 2023.

Motion: Ms. Letten moved to grant the Executive Director a \$2500 performance bonus, grossed up.

Vote: The motion passed unanimously.

12. FOR POSSIBLE ACTION: Executive Director's report

a. Financial report

Ms. Sedran said the Board is in good shape financially and is still within its budget for the year, however, it will have additional legal and lobbying expenses this year due to the legislative session and Governor's Executive Orders. The Board has money in a reserve account that will cover these costs. She recommends increasing the annual license renewal fee by \$50, as costs related to running the board office increase annually, even in non-session years.

b. Office and licensing updates

Ms. Sedran said the Board's web developers have finished construction and launch of the online Laws and Ethics Exam. It is working well, and applicants seem very happy with the switch to an online exam.

c. General updates

Ms. Sedran did not have any further updates.

13. FOR POSSIBLE ACTION: Board member comment and future agenda items

The board members did not have any comments.

14. Public comment

Mr. Michael Cabrera, attorney for the Board, suggested the Board take a formal position on SB 106 in its current amended state, so a board member or staff may testify in opposition to the bill during legislative hearings. Mr. Ott, also representing the Board, said a benefit of taking a vote would be to make the Board's position clear. Ms. Letten directed the Board to reopen agenda Item 6a.

Jennifer Ryan said she agrees with the Board's decision to discontinue use of the NCLE Advanced Exam. However, the Board should also consider discontinuing use of the ABO Advanced Exam, as most other states do not use it, including those closest to Nevada. The growth of the ophthalmic profession should be in line with population growth in Nevada, one of the fastest growing states in the nation. The current requirements hinder the licensing of healthcare professionals. Ms. Ryan also said the Board did not sufficiently solicit comment from the public regarding the potential changes to its regulations discussed at this meeting.

Raebranda Musgraves asked when the Board's vote to eliminate the NCLE Advanced Exam requirement will go into effect. Ms. Sedran said the decision goes into effect immediately.

Donna Hatch commended the Board on its decision to remove the NCLE Advanced Exam requirement, as it will open the door to many more applicants coming from other states. The Advanced Exam will still be available to those who want to earn the credential, but it will no longer be a barrier to licensure.

Tamara Sternod said the Board should continue to require the ABO Advanced Exam for licensure. The Board's requirements are listed on the website, so applicants from other states can prepare to take the exams prior to moving to Nevada, and they are not required to wait three years to take the Advanced Exams as they are in some other states. She also thanked the Board for formally opposing SB 106, which contains very vague language.

Hearing no further requests to make public comment, Ms. Letten thanked everyone for attending and adjourned the meeting at 6:15 p.m.