

STATE OF NEVADA



Board of Dispensing Opticians

Minutes of Public Meeting: June 29, 2023 at 5:00 p.m.

1. Call to order
Ms. Letten called the meeting to order and called roll at 5:01 p.m. Ms. Brusven was not yet in attendance but a quorum of board members was present to conduct business.
2. Public comment
There was no public comment.
3. FOR POSSIBLE ACTION: Approval of previous board meeting minutes
April 25, 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

771 Daeja Cousar	775 Jacqueline Seeley
772 Ma Camille Manayao	776 Karina Nguyen
773 Michele Demcuk	777 Christina Chewjalearn
774 Maria Casillas	778 Emanuel Martinez

Motion: Ms. Letten moved to confirm the licensure of the new opticians
Vote: The motion passed unanimously.
5. FOR POSSIBLE ACTION: Review and approval of recommendation created pursuant to **Section 3 of Executive Order 2023-004**
Ms. Sedran presented an overview of the recommendation, which must be submitted to the Governor's Office pursuant to the Executive Order. Mr. Michael Cabrera, counsel for the Board, said there are 22 states, plus Puerto Rico, that directly license opticians, plus several more that register or certify opticians; additional states only permit dispensing or tasks related to dispensing to be performed by licensed optometrists or ophthalmologists. Therefore, most states regulate the practice of ophthalmic dispensing, even if they do not directly license opticians.
Motion: Ms. Letten moved to approve the recommendation to be sent to the Governor's Office.
Vote: The motion passed unanimously.

Ms. Brusven joined the meeting at 5:13 p.m.

6. FOR POSSIBLE ACTION: **82nd (2023) Nevada Legislative Session** updates and recommendations Mr. Tray Abney, lobbyist for the Board, gave final updates on the 2023 Legislative Session. The Board's "clean-up bill," AB 415, was passed unanimously by both the Nevada Assembly and Senate and was signed into law by Governor Lombardo. Mr. Abney thanked the Board members and staff for all their work over the course of the session crafting and amending the language of the bill into its final form. He also thanked Assemblywoman Taylor for carrying the bill for the Board; it was a very big project for a freshman legislator, given the length and complexity of the bill.

SB 106 was presented by Warby Parker; the intent of the bill was to allow manufacturing and direct-to-consumer sales facilities in Nevada to operate outside the purview of the Board. The Board did not support the bill, however, it was heavily amended over the course of the session and provisions were added to give the Board some oversight of these facilities. A licensed optician must oversee the daily manufacturing process, and the manufacturer must ensure the product accurately reflects the customers' prescriptions, pursuant to the standards adopted by the Board. Ms. Sedran said the final version of the bill is not exactly what the Board had wanted, however, the Board's staff and lobbyists worked hard all session to monitor this bill and negotiate the best possible outcome. The Board now has some direct statutory oversight of manufacturing and direct-sales facilities, which it would not have had under the original language in the bill.

AB 431 was presented by Governor Lombardo; the intent of the bill was to make over state government and create new cabinet-level positions. Most of the bill was stripped away during the session, however, under Section 19 of the bill, there will be a new Office of Boards Commissions and Councils Standards created within the Department of Business and Industry. The new office will centralize the administration of the boards and create a uniform set of standards for licensing, investigations, and discipline. For now, the day-to-day operations of the licensing boards will remain the same, but various standards will be set for those operations. Once the new office is staffed, there may be further changes to the structure and functions of the boards.

7. FOR POSSIBLE ACTION: Discussion of implementing revisions to NRS Chapter 637 pursuant to AB 415 (2023), including preparatory administrative and regulatory tasks Mr. Cabrera said both AB 415 and SB 106 will take effect on October 1st; however, immediately upon their passage by the Governor, the Board is authorized by state law to begin the rulemaking process and issue any administrative orders necessary to carry out the provisions of the new laws. The freeze on the creation of new regulations by the licensing boards is still in effect pursuant to the Governor's executive order; the Governor's Office has indicated the freeze will end soon but has not given an exact date. Ms. St-Jules recommended the Board file for an exemption under Item 5 of Executive Order 2023-003, which allows rulemaking that is necessary for the functioning of the agency. Mr. Cabrera agreed the Board should make use of the exemption.

Ms. Sedran gave a brief overview of the major revisions to NRS Chapter 637 contained in AB 415 and SB 106. New regulations will be necessary to clarify and add detail to the new laws.

Motion: Ms. Letten moved to authorize the executive director to seek an exemption to the regulatory freeze under Section 5 of Executive Order 2023-003.

Vote: The motion passed unanimously.

8. 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 she is still reviewing the program; she has been working with the executive director of the CLSA on reviewing upcoming changes to the material. Ms. Sedran clarified this program is still approved by the Board as a contact lens course for apprentices; Ms. Brusven is simply reviewing new content.
 - b. **Optical Training Institute (OTI):** Optician Development Program
Ms. Letten said she and Mr. Myers reviewed the program. She believes the Board should be seeking more advanced content for its apprentice education programs than what is currently available. The OTI program is similar to what is offered by the NAO program, which is the Board's currently approved home-study program. She does not recommend the Board approve a new program that does not offer more advanced content.
Motion: Ms. Letten moved to deny the OTI's request for approval as an apprentice education program.
Vote: The motion passed unanimously.

9. FOR POSSIBLE ACTION: Discussion and updates with representative for the American Board of Opticianry
There was no discussion under this item.

10. FOR POSSIBLE ACTION: Request for training and experience credit for completion of course work pursuant to NAC 637.290(3):
Davis-Redditt, Michael
Ms. Sedran reviewed the NAC section that allows an apprentice to request work experience credit for course work completed as part of an AAS degree program. The request is not made very often because the law requires an apprentice who earns an AAS degree to be licensed for one year, during which time, most apprentices are able to collect the required 1,000 hours of on-the-job training. The applicant was unable to obtain his required hours during his one year of licensure because of limited openings in the optical department at his store, however, he has completed over 500 hours and all other requirements for licensure.

Ms. Letten said this request should be treated as a special case; classroom work should be considered a separate requirement from on-the-job training hours, and the NAC provisions should be amended to reflect those separate requirements. However, the current NAC provisions do allow an applicant to request course work be applied towards the required hours, and this applicant has made a compelling argument that he has had training in the classroom commensurate with the required on-the-job training.

Motion: Ms. Letten moved to grant the applicant credit for the remaining training hours needed to complete his licensing requirements.

Vote: The motion passed unanimously.

11. FOR POSSIBLE ACTION: Executive Director's report
- a. Financial report
 - i. Review and approval of FY24 Budget
Motion: Ms. Brusven moved to approve the new budget.
Vote: The motion passed unanimously.
 - ii. Discussion and decision on changing banks, opening new accounts, and moving funds

Ms. Sedran said she would like to move the Board's accounts to a different bank that offers more online services and 24-hour customer support. She would also like the Board to authorize her to close its CD account before its maturation date, and pay the penalty for doing so, if necessary to cover legal and lobbying costs related to the 2023 legislative session and the Governor's executive orders.

Moton: Ms. Brusven moved to authorize the executive director to make decisions on moving the Board's accounts and funds to a different bank and closing the CD account and withdrawing funds if necessary.

Vote: The motion passed unanimously.

iii. Discussion and decision on new office lease

Motion: Ms. Letten moved to authorize the executive director to enter a new lease agreement at the amount of \$650 per month, with the agreement being substantially in the form of the State's standard lease contract.

Vote: The motion passed unanimously.

iv. General financial updates

Ms. Sedran said the Board may need to offset increased operating costs, including leasing office space and attorney and lobbyist fees, by increasing renewal fees for 2024. Ms. Letten said the Board has not increased renewal fees for opticians in almost 20 years.

b. Office and licensing updates

Ms. Sedran said the Board has issued 30 new apprentice licenses thus far in 2023, for a total of 140 active apprentice licenses, and 15 new optician licenses, for a total of 387 active optician licenses.

c. General updates

Ms. Sedran had no further items to report.

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

Ms. Letten proposed an agenda item to increase the optician renewal fee by \$50. Ms. Sedran said she would add the proposal to the new draft of the regulations. The Board will need to hold a regulation workshop and hearing before the change can go into effect. Ms. St-Jules said new laws require the Board to have a public meeting location available when conducting rulemaking, but the board members may still attend the meetings remotely.

13. Public comment

Howard Adler, Licensed Optician #246, asked whether the licenses of opticians are still valid in Nevada, or if licensure will be eliminated under the Governor's executive orders. Ms. Letten said licensure will remain valid in the state. Mr. Adler thanked the Board and Executive Director for all the work they did during the legislative session on behalf of the licensees.

Brian Deiner, speaking on behalf of the Optical Training Institute (OTI), said he was disappointed and concerned with the Board's decision to reject the OTI's Optician Development Program. The board members acknowledged the content of the program is similar to that of the Board's currently approved programs. Several other states have acknowledged the quality of the program, as well as the innovative digital training components, which meet the needs of modern opticians. The Board's decision limits educational diversity, rather than encouraging quality and fair competition between education programs in the State. He respectfully requests the Board reconsider its decision and is open to answering any questions or concerns the board members have respecting the program.

Josh MacNamara, speaking on behalf of the OTI, echoed Mr. Deiner's comments and requested clarification from the Board regarding its reasoning for rejecting the program. The program's unique

delivery system of educational content may be preferred by some apprentices and their sponsors. Approval of the program would broaden the educational landscape and offer more choice and flexibility to Nevada apprentices, which would enhance the skill and knowledge base of future Nevada opticians. The Board's decision impedes fair competition and access and hints at a protectionist stance. He would welcome a productive discussion on the merits of the program and requests the Board reconsider its decision.

James Morris, General Counsel and Executive Director of the American Board of Opticianry (ABO), spoke regarding the OTI Optician Development Program. He explained the ABO provides all of the exams utilized by the Board for licensure, and the program in question has not been analyzed for validity by an independent third party. The current Board-approved educational providers are nonprofit organizations, and were provided, under a nondisclosure agreement, with a blueprint of the ABO exams. The blueprint was used to determine their programs' validity in providing adequate instruction and training in the required exam areas. Ms. Sedran asked for clarification on what an independent third-party review would entail, and whether the Board's current approved programs are accredited. Mr. Morris said the ABO works with the Commission on Opticianry Accreditation (COA), which provides independent review and accrediting of opticianry training programs, including 1 and 2-year degree programs, as well as independent training programs not affiliated with any educational institution. The COA provides a team to independently evaluate and scrutinize a program's content and compare it to the blueprint provided by the ABO. The ABO is not affiliated with the COA, but does provide financial support for the review process to ensure any programs purporting to prepare students for the ABO exams have been independently validated. The ABO is itself accredited by the International Organization for Standardization (ISO), which accredits certification testing programs. There are also various financial aspects of a program, such as the stability of the program, privacy and payment processing, HIPAA considerations for ADA students, etc., that are reviewed as part of the accrediting process. He does not recommend the Board approve a program that has not been independently evaluated by a recognized accrediting organization.

Aurora Holt, Licensed Optician #349, asked how long licensure will remain valid in Nevada. Ms. Sedran said licensure is not being phased out at this time; the legislature just passed AB 415, and the Governor signed it into law, which requires a license to dispense ophthalmic products. Licensing requirements cannot be eliminated except by legislative action, so licensure will remain in place until at least the 2025 legislative session. Ms. Holt asked whether a corporation could come into Nevada and dispense prescription eyewear without hiring a licensed dispensing optician. Ms. Sedran said SB 106, which was also approved by the Governor, allows a manufacturing facility to sell prescription eyewear to out-of-state consumers without having every pair inspected by a licensed optician, however, all sales to in-state consumers must be physically inspected and verified by a licensed optician.

Ms. Letten thanked everyone for attending and closed the meeting at 6:22 p.m.