

Amendment No. 897

Assembly Amendment to Assembly Bill No. 77 First Reprint	(BDR 54-366)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 77 R1 (§§ 4, 20).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JRS/RBL



Date: 5/27/2019

A.B. No. 77—Makes various changes to provisions governing the practice of optometry. (BDR 54-366)



ASSEMBLY BILL NO. 77—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE NEVADA STATE BOARD OF OPTOMETRY)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing the practice of optometry. (BDR 54-366)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to optometry; authorizing an assistant to perform activities relating to optometry under certain circumstances; providing for the certification of a mobile optometry clinic; providing for certification by endorsement to treat a person diagnosed with glaucoma; revising the acts which constitute the practice of optometry; revising certain exemptions relating to the practice of optometry; revising provisions governing the Nevada State Board of Optometry and the Executive Director of the Board; revising provisions governing the preparation of a roster of licensees; authorizing the Board to adopt certain policies; requiring the Board to establish, review and revise a schedule of fees; revising provisions which authorize the Board to impose certain penalties; revising provisions governing the qualification and examination of an applicant for a license to practice optometry; expanding the period required for the renewal of a license to practice optometry; revising provisions governing the restoration of a license to practice optometry; revising the requirements for certification to prescribe pharmaceutical agents; revising provisions governing the issuance of a certificate to treat glaucoma; revising certain provisions governing disciplinary actions against a licensee; revising provisions relating to the submission of a complaint against a licensee; revising provisions governing the location at which a licensee practices optometry; prohibiting an optometrist from entering into certain leases with a person who is not licensed as an optometrist; prohibiting a person from directly or indirectly supervising an optometrist under certain circumstances; revising provisions governing service of process and the transmission of certain notices by the Board; authorizing any licensed optometrist to administer topical diagnostic ophthalmic agents; revising provisions governing the issuance of an ~~injunction or~~

~~the imposition of a criminal penalty or~~ administrative fine for certain violations; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law extensively regulates the practice of optometry in this State, including, without limitation, provisions governing the: (1) creation of the Nevada State Board of Optometry; (2) issuance and renewal of a license to practice optometry; (3) issuance and renewal of a license for an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders; (4) certification of an optometrist to administer and prescribe therapeutic pharmaceutical agents; (5) issuance of a certificate to treat persons diagnosed with glaucoma; and (6) payment of fees for such licenses and certificates. (Chapter 636 of NRS) This bill makes numerous changes to the provisions of existing law governing the practice of optometry.

Sections 2, 35-39 and 60-62 of this bill revise provisions governing the administering and prescribing of a pharmaceutical agent by an optometrist. **Section 3** of this bill authorizes an assistant in any setting where optometry is practiced to fit ophthalmic lenses or spectacle lenses and perform certain other activities if the assistant acts under the direct supervision of a licensed optometrist. **Section 4** of this bill sets forth the requirements for the issuance of a certificate to own or operate a mobile optometry clinic. **Section 4.5** of this bill provides for the issuance of a certificate by endorsement to treat a person diagnosed with glaucoma. **Sections 6-9** of this bill revise the definitions of "advertise," "contact lens," "diagnostic pharmaceutical agents" and "prescription." **Section 10** of this bill expands the acts which constitute the practice of optometry to include, without limitation, removing eyelashes with forceps and closing the lacrimal punctum of an eye. **Section 10.5** of this bill revises provisions concerning the applicability of chapter 636 of NRS governing the practice of optometry. **Section 11** of this bill revises the circumstances under which a person is exempt from the provisions of chapter 636 of NRS regulating the practice of optometry.

Section 12 of this bill requires the Board to take certain actions at its first meeting held during each fiscal year. **Section 13** of this bill repeals provisions which require the Executive Director of the Board to file a performance bond with the Governor. **Section 14** of this bill clarifies that the Board may employ consultants. **Section 15** of this bill amends certain provisions governing the filing of a complaint to initiate disciplinary action. **Section 17** of this bill requires the Board to periodically prepare and make available a roster of all licensees. **Section 18** of this bill authorizes the Board to adopt policies necessary to carry out the provisions of chapter 636 of NRS governing the practice of optometry. **Section 19** of this bill revises certain provisions governing the accreditation of schools which teach optometry. **Section 20** of this bill requires the Board to establish, review and revise a schedule of fees at least once every 2 years. **Section 20** also sets forth the maximum amount of fees that the Board may include in the schedule.

Section 21 of this bill revises provisions which authorize the Board to impose certain penalties against a person who engages in the practice of optometry in this State without a license to practice optometry or a renewal card for the license. **Sections 22-27** of this bill revise the requirements for the issuance of a license to practice optometry, including, without limitation, the examinations, scores and payment of fees required for the license. **Section 28** of this bill requires the payment of a fee for the renewal of a license for an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders and revises the period during which the license is effective.

Sections 29-33 of this bill provide for the renewal of and the payment of fees for the renewal of a license to practice optometry on certain dates occurring during even-numbered years. **Section 34** of this bill: (1) authorizes the restoration of a suspended license within 90 days after the license is suspended upon the completion of certain acts by the licensee; and (2) provides for the expiration of the license if those acts are not completed within that period.

Section 39 of this bill revises provisions relating to the prescription of a controlled substance by an optometrist.

Section 40 of this bill revises the circumstances under which an optometrist is required to obtain a certificate to treat persons diagnosed with glaucoma and to refer those persons to an ophthalmologist for treatment. **Section 41** of this bill revises the requirements which the

Board must include in its regulations relating to the issuance of a certificate to treat persons diagnosed with glaucoma. **Section 41.5** of this bill clarifies that a person licensed to practice optometry in this State is subject to the jurisdiction of the Board regardless of whether the license is expired, suspended or revoked. **Section 41.5** also revises the manner in which the Board may discipline a licensee.

Sections 42-45 of this bill revise the acts which constitute sufficient cause for disciplinary action or which constitute unethical or unprofessional conduct. **Sections 46 and 47** of this bill revise the requirements for making and hearing a complaint against a licensee. **Sections 48.3 and 48.6** of this bill revise: (1) the manner in which a disciplinary hearing must be conducted; and (2) the actions that the Board may take upon finding by a preponderance of the evidence that a person has engaged in one or more grounds for disciplinary action. **Section 48.9** of this bill repeals certain provisions which authorize the appeal of a decision to revoke or suspend a license.

Section 49 of this bill prohibits an optometrist from owning all or any portion of an optometry practice under an assumed or fictitious name unless the optometrist is issued a certificate of registration to practice optometry under the assumed or fictitious name at a specific location. An application for the certificate must be accompanied by certain proof satisfactory to the Board. **Section 49** also requires certain names to be displayed near the entrance of the office of an optometrist who is issued a certificate of registration. **Section 50** of this bill revises provisions relating to the unauthorized use of a license to practice optometry or a renewal card for the license. **Section 51** of this bill authorizes the Board or the Executive Director of the Board to issue a duplicate license and renewal card for each location at which a licensee practices optometry. **Section 52** of this bill requires a licensee to notify the Executive Director in writing before establishing an additional location to practice optometry. **Section 53** of this bill prohibits an optometrist from entering into certain leases with a person who is not licensed as an optometrist. **Section 53.5** of this bill prohibits a person who is not licensed as an optometrist from supervising an optometrist or controlling, dictating or influencing the professional judgment of a licensed optometrist. **Section 54** of this bill revises the requirements for an optometrist to collaborate with an ophthalmologist. **Section 55** of this bill sets forth the manner in which service of process must be made and authorizes the transmission by electronic mail or facsimile machine any notice that is required to be given by the Board or the Executive Director of the Board to a person. **Section 56** of this bill authorizes any licensed optometrist to administer topical diagnostic ophthalmic agents. **Section 57** of this bill revises provisions governing forms for prescriptions for contact lenses and prohibits a prescription for spectacle lenses from being construed in a certain manner. ~~[Section 57.5 of this bill authorizes the issuance of certain injunctions without proof of actual damage sustained by a person and specifies that the issuance of those injunctions does not relieve a person from criminal prosecution for any unauthorized practice of optometry.]~~

~~Section 58 of this bill repeals certain provisions relating to the imposition of certain greater penalties for a violation of the provisions of chapter 636 of NRS governing the practice of optometry.]~~ **Section 59** of this bill provides that any person who is licensed under chapter 636 of NRS and who engages in certain grounds for disciplinary action is liable to the Board for an administrative fine of not more than \$5,000 for each violation.

Section 64 of this bill repeals certain provisions governing the practice of optometry.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4.5, inclusive, of this act.

Sec. 2. *“Pharmaceutical agent” means any topical or oral drug used or prescribed by a licensee for the examination, management or treatment of an abnormality, disease or condition of the eye or its appendages, including, without limitation, any analgesic drug subject to the requirements of NRS 636.2882 or added to schedule III, schedule IV or schedule V by the State Board of Pharmacy by regulation pursuant to NRS 453.146. The term does not include any drug or*

1 *other substance added to schedule I or schedule II by the State Board of*
2 *Pharmacy pursuant to that section.*

3 **Sec. 3.** 1. *In any setting where optometry is practiced, an assistant may fit*
4 *ophthalmic lenses or spectacle lenses if the assistant acts under the direct*
5 *supervision of a licensed optometrist.*

6 2. *In addition to the provisions of subsection 1, an assistant in any setting*
7 *where optometry is practiced may perform any of the following activities under*
8 *the direct supervision of a licensed optometrist:*

9 (a) *Prepare a patient for examination.*

10 (b) *Collect preliminary data concerning a patient, including taking the*
11 *medical history of the patient.*

12 (c) *Perform simple and noninvasive testing of a patient in preparation for*
13 *any subjective refraction, testing, evaluation, interpretation, diagnosis or*
14 *treatment of the patient by the licensed optometrist.*

15 (d) *For an ophthalmic purpose, administer any cycloplegic or mydriatic*
16 *agent or topical anesthetic that is not a controlled substance.*

17 (e) *Use an ophthalmic device or oversee ocular exercises, visual training,*
18 *visual therapy or visual rehabilitation as directed by a licensed optometrist.*

19 3. *If an assistant conducts any activities pursuant to subsection 2, the*
20 *licensed optometrist must conduct the final eye examination of the patient.*

21 4. *As used in this section, "assistant" means a person employed by an*
22 *optometrist or any medical provider or medical facility at which the optometrist*
23 *provides or offers to provide his or her services as an optometrist.*

24 **Sec. 4.** 1. *Notwithstanding any provision of this chapter to the contrary, a*
25 *licensee, nonprofit or charitable organization, governmental agency or school in*
26 *this State who obtains a certificate pursuant to this section may own or operate a*
27 *mobile optometry clinic pursuant to this section. An application for the issuance*
28 *or renewal of a certificate to own or operate the clinic must be submitted on a*
29 *form approved by the Board and include any fees established by the Board*
30 *pursuant to subsection 4. As soon as practicable after receiving an application*
31 *and the appropriate fees, the Board shall approve or deny the application based*
32 *upon the criteria established by the Board pursuant to subsection 4. A certificate*
33 *issued to own or operate a mobile optometry clinic must be renewed on or before*
34 *March 1 of each even-numbered year.*

35 2. *A certified mobile optometry clinic may include any equipment required*
36 *to operate the clinic, including, without limitation, a motor vehicle or a motor*
37 *vehicle and trailer which may be moved from one location to another. Any*
38 *optometric services available at the clinic must be provided under the direction*
39 *and control of a licensee. Any final examination of a patient at the mobile*
40 *optometry clinic must be completed by the licensee.*

41 3. *A certified mobile optometry clinic may only provide optometric services*
42 *to:*

43 (a) *Governmental agencies;*

44 (b) *Patients with impaired or restricted mobility;*

45 (c) *Members of low-income and other medically underserved groups in the*
46 *State; and*

47 (d) *Academic programs.*

48 4. *The Board shall adopt:*

49 (a) *Regulations setting forth:*

50 (1) *The requirements for the issuance and renewal of a certificate to*
51 *operate a mobile optometry clinic; and*

52 (2) *The amount of the fees for the issuance and renewal of the*
53 *certificate; and*

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 4.5. 1. The Board may issue a certificate by endorsement to treat a person diagnosed with glaucoma to an applicant who meets the requirements of this section.

2. An applicant for a certificate by endorsement must submit an application to the Executive Director in a form prescribed by the Board. The application must include the following information:

(a) Proof satisfactory to the Board that the applicant:

(1) Holds a valid and unrestricted certificate or other credential approved by the Board to engage in the treatment of a person with glaucoma issued in any state, the District of Columbia, the Commonwealth of Puerto Rico or any other territory or possession of the United States ~~for~~ which the Board has determined was issued in accordance with requirements that are substantially similar to those applicable to the issuance of a certificate to treat persons diagnosed with glaucoma in this State pursuant to NRS 636.2893; and

(2) Has ~~not previously been held criminally or civilly liable for any malpractice relating to his or her certificate or other credential to treat a person with glaucoma;~~ had no adverse actions reported to the National Practitioner Data Bank, or its successor organization, within the past 5 years;

(b) An affidavit stating that the information set forth in the application and any accompanying material is true and correct; and

(c) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement to treat a person diagnosed with glaucoma, the Executive Director shall provide a written notice to the applicant if any additional information is required to consider the application. Unless the application is denied for good cause, the Board shall approve the application and issue a certificate to treat a person diagnosed with glaucoma by endorsement within 45 days after receiving the application.

Sec. 5. NRS 636.015 is hereby amended to read as follows:

636.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 636.016 to ~~[636.024.]~~ 636.023, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 636.016 is hereby amended to read as follows:

636.016 "Advertise" means the commercial use of any medium, including, but not limited to, any brochures or business cards, the Internet, radio or television, or a newspaper, magazine, sign or other printed ~~[matter.]~~ or electronic medium, by an optometrist to bring the services or materials offered by the optometrist to the attention of members of the general public.

Sec. 7. NRS 636.018 is hereby amended to read as follows:

636.018 "Contact lens" means an ophthalmic lens prescribed for application on the anterior surface of the eye. The term includes any plano lens or cosmetic lens.

Sec. 8. NRS 636.019 is hereby amended to read as follows:

636.019 "Diagnostic pharmaceutical agents" means ~~[topical ophthalmic anesthetics and topical cycloplegics, miotics and mydriatics.]~~ any topical or oral agents used to examine and diagnose conditions of the eye or adnexa.

Sec. 9. NRS 636.022 is hereby amended to read as follows:

636.022 "Prescription" means:

1. An order given individually for the person for whom prescribed, directly from a licensed optometrist who is certified to prescribe and administer ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288, or his or her agent,

1 to a pharmacist or indirectly by means of an order signed by the licensed
2 optometrist or an electronic transmission from the licensed optometrist to a
3 pharmacist; or

4 2. A written direction from a licensed optometrist to:

5 (a) Prepare an ophthalmic lens for a patient; or

6 (b) Dispense a prepackaged contact lens that does not require any adjustment,
7 modification or fitting.

8 **Sec. 10.** NRS 636.025 is hereby amended to read as follows:

9 636.025 1. The acts set forth in this section, or any of them, whether done
10 severally, collectively or in combination with other acts that are not set forth in this
11 section constitute practice in optometry within the purview of this chapter:

12 (a) Advertisement or representation as an optometrist.

13 (b) Adapting, or prescribing or dispensing, without ~~the valid~~ prescription by a
14 practitioner of optometry or medicine licensed in this State, any ophthalmic lens,
15 frame or mounting, or any part thereof, for correction, relief or remedy of any
16 abnormal condition or insufficiency of the eye or any appendage or visual process.
17 The provisions of this paragraph do not prevent an optical mechanic from doing the
18 mere mechanical work of replacement or duplication of the ophthalmic lens or
19 prevent a licensed dispensing optician from engaging in the practice of ophthalmic
20 dispensing ~~in accordance with the provisions of chapter 637 of NRS.~~

21 (c) The examination, *evaluation, diagnosis and treatment* of the human eye
22 and its appendages, the measurement of the powers or range of human vision ~~by~~ *by*
23 *any means, including, without limitation, the use of an autorefractor or other*
24 *automated testing device, unless performed under the direct responsibility of a*
25 *licensed optometrist as authorized in section 3 of this act*, the determination of the
26 accommodative and refractive states of the eye or the scope of its function in
27 general, or the diagnosis or determination of any visual, muscular, neurological,
28 interpretative or anatomic anomalies or deficiencies of the eye or its appendages or
29 visual processes.

30 (d) Prescribing, directing the use of or using any optical device in connection
31 with ocular exercises, orthoptics, *vision rehabilitation, vision therapy* or visual
32 training.

33 (e) The prescribing of contact lenses.

34 (f) The measurement, *initial fitting, as defined in NRS 636.387*, or adaptation
35 of contact lenses to the human eye except under the direction, *responsibility* and
36 supervision of ~~a physician, surgeon or~~ *an* optometrist licensed in the State of
37 Nevada ~~as authorized in section 3 of this act~~.

38 (g) The topical use of ~~diagnostic~~ pharmaceutical agents to determine any
39 visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies
40 of the eye or its appendages or visual processes.

41 (h) Prescribing, directing the use of or using a ~~therapeutic~~ pharmaceutical
42 agent *or device* to treat an abnormality of the eye or its appendages.

43 (i) Removing a foreign object from the surface or epithelium of the eye.

44 (j) *Removing eyelashes with forceps.*

45 (k) *Closing the lacrimal punctum of the eye.*

46 (l) The ordering *or performing* of laboratory tests *or imaging* to assist in the
47 diagnosis of an abnormality of the eye or its appendages.

48 2. The provisions of this section do not authorize an optometrist to engage in
49 any practice which includes:

50 (a) ~~The incision or suturing of the eye or its appendages.~~ *Any procedure*
51 *using a laser, scalpel, needle or other instrument in which any human tissue is*
52 *cut, burned or vaporized by incision, injection, ultrasound, laser, infusion,*
53 *cryotherapy, radiation or other means; or*

(b) ~~[The use of lasers for surgical purposes.] Any procedure using an instrument which requires the closure of human tissue by suture, clamp or similar device.~~

Sec. 10.5. NRS 636.027 is hereby amended to read as follows:

636.027 This chapter ~~[shall]~~ :

1. *Applies to any person who is licensed to practice optometry pursuant to this chapter and any other person engaged in the practice of optometry in this State.*

2. *Must* not be construed to apply to physicians and surgeons duly licensed to practice in this State.

Sec. 11. NRS 636.028 is hereby amended to read as follows:

636.028 1. Except as provided in subsection 2, a person is exempt from the provisions of this chapter regulating the practice of optometry if the person is engaged in a clinical program of a school or college of optometry accredited by the Board and if the person is ~~[-]~~

~~—(a) A] a student who is enrolled in a clinical program of an undergraduate or graduate course of study in optometry at such a school or college [-or~~

~~—(b) Licensed to practice optometry in another state and is employed as a clinician or instructor at such a school or college.] and who has not received a degree of doctor of optometry.~~

2. A person who is employed as a clinician or instructor and who engages in the practice of optometry in this State is required to be licensed by the Board.

Sec. 12. NRS 636.080 is hereby amended to read as follows:

636.080 1. ~~[Within a reasonable time after the appointment of a new member.] At the first meeting of the Board held each fiscal year,~~ the Board shall meet and organize by electing from its membership a President who shall hold office for 1 year and until the election and qualification of his or her successor.

2. The Board shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive compensation as set by the Board. The Executive Director must not be a member of the Board. If a vacancy occurs in the position of Executive Director, the Board may appoint one of its members to perform the duties of the Executive Director until the position is filled. A member of the Board who is appointed to perform the duties of the Executive Director is not entitled to receive any ~~[additional]~~ compensation for performing those duties.

Sec. 13. NRS 636.085 is hereby amended to read as follows:

636.085 ~~[-]~~ The Executive Director shall ~~[-, before undertaking the duties of Executive Director, make and deliver to the Governor a good and sufficient bond payable to the State of Nevada for the benefit of the Board, in the amount designated by the Board, conditioned upon the faithful performance of his or her duties as Executive Director. The Executive Director shall file a copy of the bond with the Board.~~

~~—2. The Executive Director shall]~~ receive, maintain and disburse money on behalf of the Board and shall perform all duties imposed upon him or her pursuant to the provisions of this chapter and such other duties as the Board may prescribe.

Sec. 14. NRS 636.090 is hereby amended to read as follows:

636.090 1. The Board may employ:

(a) Agents and inspectors to secure evidence of, and report on, violations of this chapter.

(b) Attorneys, investigators, *consultants* and other professional ~~[consultants]~~ and clerical personnel necessary to administer this chapter.

2. The Attorney General may act as counsel for the Board subject to the provisions of NRS 622A.200.

Sec. 15. NRS 636.107 is hereby amended to read as follows:

636.107 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[] unless the person against whom the complaint is filed submits a written statement to the Board requesting that the documents and other information be made public records.~~

2. The ~~[complaint or other]~~ charging document ~~[filed by]~~ the Board *uses* to initiate disciplinary action *pursuant to chapter 622A of NRS* and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information in the Board's possession concerning a licensee or pending investigation to any other licensing board or any other governmental agency that is investigating a person, including, without limitation, a law enforcement agency, agency of the federal government, licensing board in this State or any other state or territory of the United States. If any confidential information concerning an investigation is provided to another governmental agency pursuant to this section, the information remains confidential and may not be provided to any other person or governmental agency. To the extent practicable, any governmental agency that receives any confidential information from the Board pursuant to this section shall treat the information as confidential.*

Sec. 16. (Deleted by amendment.)

Sec. 17. NRS 636.120 is hereby amended to read as follows:

636.120 ~~[Once each year, the]~~ The Board shall *periodically* prepare and ~~[distribute]~~ *make available* to all licensees a roster containing their names and *mailing* addresses.

Sec. 18. NRS 636.125 is hereby amended to read as follows:

636.125 The Board may adopt *policies* ~~[rules]~~ and regulations necessary to carry out the provisions of this chapter.

Sec. 19. NRS 636.135 is hereby amended to read as follows:

636.135 The Board shall accredit schools , *or approve the accreditation of schools by any nationally recognized accrediting organization or agency*, in and out of this State teaching the science and art of optometry which it finds ~~[are giving]~~ *provide* a sufficient and thorough course of study for the preparation of optometrists.

Sec. 20. NRS 636.143 is hereby amended to read as follows:

636.143 ~~[1. The]~~ *At least once every 2 years, the* Board shall *review and, if the Board deems it necessary, establish or revise,* within the limits prescribed a schedule of fees for the following purposes:

~~[Not less than~~ Not more than

Examination.....	\$100	\$500
Reexamination.....	100	500
Issuance of each license or duplicate license, including a license by endorsement.....	35	75
Renewal of each license or duplicate license.....	100	500
Issuance of a license for an extended clinical facility.....	100	500

~~Issuance of a replacement renewal card for~~

~~a license 10 50~~

~~2. If an applicant submits an application for a license by endorsement pursuant to NRS 636.207, the Board shall collect not more than one half of the fee established pursuant to subsection 1 for the initial issuance of the license.]~~

Not more than

1. Examinations	\$250
2. Applications for the issuance of a 1-year license	\$600
3. Renewal of a license	\$1,200
4. Granting certification or issuing certificates	\$1,000
5. Licensing of extended clinical facilities and other practice locations	\$500
6. Individually verifying licensure or disciplinary status	\$100
7. Late fee	\$1,000
8. Any other service provided by the Board pursuant to this chapter	\$1,000

Sec. 21. NRS 636.145 is hereby amended to read as follows:

636.145 1. A person shall not engage in the practice of optometry in this State unless:

(a) The person has obtained a license pursuant to the provisions of this chapter; and

(b) Except for the year in which such license was issued, the person holds a current renewal card for the license.

2. *The Board shall conduct an investigation pursuant to subsection 3 if the Board receives a complaint which sets forth any reason to believe that a person has engaged in the practice of optometry in this State without a license issued pursuant to this chapter.*

3. In addition to any other penalty prescribed by law, if the Board, *after conducting an investigation and hearing in accordance with chapters 233B, 622 and 622A of NRS*, determines that a person has committed any act described in subsection 1, the Board may:

(a) Issue and serve on the person an order to cease and desist *from the practice of optometry* until the person obtains *a license* from the Board. ~~[the proper license or otherwise demonstrates that he or she is no longer in violation of subsection 1. An order to cease and desist must include a telephone number with which the person may contact the Board.]~~

(b) Issue a citation to the person. ~~[A citation issued pursuant to this paragraph must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this paragraph. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.]~~

~~—(c) Assess against the person an administrative fine as provided in NRS 636.420.~~

~~—(d). (c) Impose any combination of the penalties set forth in paragraphs (a) [(c)] and (b). [and (c).]~~

4. *Unless the Board determines that extenuating circumstances exist, the Board shall forward to the appropriate law enforcement agency any substantiated*

information submitted to the Board concerning a person who practices or offers to practice optometry without a license issued pursuant to this chapter.

5. Each instance of unlicensed activity constitutes a separate offense for which a separate citation may be issued.

Sec. 22. NRS 636.150 is hereby amended to read as follows:

636.150 Except as otherwise provided in NRS 636.206 and 636.207, any ~~Any~~ person applying for a license to practice optometry in this State must:

1. File proof of his or her qualifications;

2. ~~{Make application for an examination;~~

~~—3. Take and pass {the} each examination {;~~

~~—4. identified, administered or approved by the Board;~~

3. Pay the prescribed fees; and

~~{5.}~~ 4. Verify that all the information he or she has provided to the Board or to any other entity pursuant to the provisions of this chapter is true and correct.

Sec. 23. NRS 636.155 is hereby amended to read as follows:

636.155 Except as otherwise provided in NRS 636.206 and 636.207, an ~~Any~~ applicant must file with the Executive Director satisfactory proof that the applicant:

1. Is at least 21 years of age;

2. Is a citizen of the United States or is lawfully entitled to reside and work in this country;

3. ~~{Is of good moral character;~~

~~—4. Has been certified or recertified as completing a course of cardiopulmonary resuscitation within the 12-month period immediately preceding the examination for licensure; and~~

~~—5. Has graduated from a school of optometry accredited or approved by the established professional agency and the Board, maintaining a standard of 6 college years, and including, as a prerequisite to admission to the courses in optometry, at least 2 academic years of study in a college of arts and sciences accredited by the Association of American Universities or a similar regional accrediting agency.}~~
Board pursuant to NRS 636.135;

4. Has passed each part of the comprehensive national optometry examination administered by the National Board of Examiners in Optometry or its successor;

5. Has passed each examination identified, administered or approved by the Nevada State Board of Optometry pursuant to NRS 636.150; and

6. Has not been disciplined for harming a patient as a licensed optometrist in another state.

Sec. 24. NRS 636.170 is hereby amended to read as follows:

636.170 ~~{1. The Board shall:~~

~~—(a) Conduct a regular annual examination, and may conduct a special examination when it deems that circumstances warrant such examination.~~

~~—(b) Fix and announce the time and place of any examination at least 30 days prior to the day when it is to be commenced.~~

~~2. The member of the Board who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.~~

Sec. 25. NRS 636.180 is hereby amended to read as follows:

636.180 An examination must:

1. Be practical in character and design as determined by the Board;

2. Test the fitness of the examinee to practice optometry; *and*

3. Be prepared and administered by the Board or a testing agency that has been designated by the Board to conduct its examinations . ~~{; and~~

~~—4. Be conducted in the English language.}~~

1 **Sec. 26.** NRS 636.190 is hereby amended to read as follows:

2 636.190 Except as otherwise provided in NRS 622.090, a grade of ~~[75]~~ 70 or
3 higher for each area tested ~~[on the examination]~~ is required to pass ~~[an]~~ the
4 examination.

5 **Sec. 27.** NRS 636.215 is hereby amended to read as follows:

6 636.215 The Board shall execute a license for each person who has satisfied
7 the requirements of NRS 636.150, **636.155**, 636.206 or 636.207 and submitted all
8 information **and fees** required to complete an application for a license. A license
9 must:

10 1. Certify that the licensee has been examined and found qualified to practice
11 optometry in this State; and

12 2. ~~[Be signed by each member]~~ **Bear the signatures** of the **President of the**
13 **Board** ~~[]~~ **and the Executive Director.**

14 **Sec. 28.** NRS 636.227 is hereby amended to read as follows:

15 636.227 1. The Board may grant a license to an accredited school or college
16 of optometry to establish an extended clinical facility for the treatment of visual
17 disorders and shall adopt reasonable regulations and establish procedures for such
18 purpose. If a license is granted, it is effective ~~[for]~~ only ~~[]~~ **until February 28 of the**
19 **next even-numbered** year unless renewed by the Board ~~[]~~ **upon payment of the fee**
20 **for the renewal of the license established pursuant to NRS 636.143.**

21 2. An accredited school or college of optometry which desires to establish an
22 extended clinical facility for the treatment of visual disorders in this State must
23 apply to the Board for a license, and the application must contain the following
24 information:

25 (a) The name and address of the proposed facility;

26 (b) The date when the school or college desires to commence operation of the
27 facility;

28 (c) A brief description of the facility and of the equipment which will be
29 available for use there;

30 (d) The kinds of optometric services to be rendered; and

31 (e) The name and address of each instructor or clinician to be employed at the
32 facility, his or her academic qualifications and any licenses which entitle the
33 instructor or clinician to practice optometry in this or any other state.

34 3. Every school or college of optometry which operates a licensed facility in
35 this State shall notify the Board if the school or college changes its instructors or
36 clinicians, the location of the facility or the content of a clinical program.

37 4. Nothing in this section authorizes a licensed optometrist to engage in any
38 acts which are beyond the scope of his or her license issued in accordance with the
39 provisions of this chapter.

40 5. For the purposes of this section, "extended clinical facility for the treatment
41 of visual disorders" means a clinical facility which renders optometric services and
42 is operated by an accredited school or college of optometry, but which is located
43 beyond the boundaries of the principal campus of the school or college.

44 **Sec. 29.** NRS 636.250 is hereby amended to read as follows:

45 636.250 A license issued under this chapter or any former law must be
46 renewed pursuant to the provisions of NRS 636.250 to 636.285, inclusive, before
47 March 1 of each **even-numbered** year.

48 **Sec. 30.** NRS 636.255 is hereby amended to read as follows:

49 636.255 The Executive Director shall ~~[mail]~~ **provide** a notice of **the deadline**
50 **for the renewal of a license** to each licensee before February 1 of each **even-**
51 **numbered** year. The failure of the Executive Director to notify a licensee does not
52 excuse the licensee from the requirements of NRS 636.250.

1 **Sec. 31.** NRS 636.260 is hereby amended to read as follows:

2 636.260 1. Before March 1 of each *even-numbered* year, each licensee shall
3 pay a renewal fee to the Executive Director in the amount ~~[specified in]~~ *established*
4 *pursuant to* NRS 636.143. For the purposes of this subsection, the date of the
5 postmark on any payment received by mail shall be deemed to be the date of receipt
6 by the Executive Director.

7 2. The renewal fee must be accompanied by satisfactory evidence that the
8 licensee has, within the immediately preceding ~~[12-month]~~ *24-month* period,
9 completed the required number of hours in a course or courses of continuing
10 education that have been approved by the Board. This evidence must be indicated
11 on the form for proof of completion of continuing education that is furnished by the
12 Board. The Board shall not require a licensee to complete more than ~~[24]~~ *40* hours
13 of continuing education during each ~~[year]~~ *period of renewal*. The Board may
14 waive the requirement that a licensee complete all or part of the required number of
15 hours of continuing education upon good cause shown by the licensee.

16 3. A licensee who is certified to administer and prescribe ~~[therapeutic]~~
17 pharmaceutical agents pursuant to NRS 636.288 must, at the time of paying the
18 renewal fee, present evidence satisfactory to the Executive Director that, during the
19 ~~[12]~~ *24* months immediately preceding the payment of the renewal fee, the licensee
20 completed an educational or postgraduate program approved by the Board. The
21 Board shall establish the number of hours for completion of the program which
22 must be not less than ~~[30]~~ *50* hours nor more than ~~[50]~~ *100* hours.

23 **Sec. 32.** NRS 636.265 is hereby amended to read as follows:

24 636.265 Upon payment of the renewal fee, submission of evidence of
25 completion of the required number of hours of continuing education and
26 submission of all information required to complete the renewal, the Executive
27 Director shall execute and issue a renewal card for the license to the licensee,
28 certifying that the license has been renewed for a ~~[12-month]~~ *24-month* period
29 beginning March 1 of each *even-numbered* year. The renewal card must indicate
30 the address of the place of the licensee's practice for which the card is issued and be
31 displayed prominently at that location. The renewal card must be signed by the
32 Executive Director, ~~[and sealed with the seal of the Board.]~~

33 **Sec. 33.** NRS 636.270 is hereby amended to read as follows:

34 636.270 If a licensee fails to comply with the provisions of NRS 636.260 on
35 or before the prescribed date, the license must be suspended effective March 1 ~~[]~~ *of*
36 *the year of the prescribed date* and must remain suspended until it is restored in the
37 manner specified in NRS 636.275 ~~[]~~ *or expires pursuant to that section,*
38 *whichever occurs first.*

39 **Sec. 34.** NRS 636.275 is hereby amended to read as follows:

40 636.275 1. A license which has been suspended for failure of the licensee to
41 pay the ~~[annual]~~ renewal fee, ~~[or]~~ to submit all information required to complete
42 the renewal *or to submit evidence of completion of the required number of hours*
43 *of continuing education* may be restored at any time ~~[during the calendar year]~~
44 *within 90 days after the suspension of the license* upon the licensee:

45 (a) Paying the ~~[annual]~~ renewal fee;

46 (b) Paying ~~[the Executive Director]~~ a ~~[nonrenewal penalty]~~ *late fee* in the
47 amount prescribed by ~~[NRS 636.285; and]~~ *the Board;*

48 (c) Submitting all required information ~~[]~~

49 ~~— 2. A license which has been suspended for failure of the licensee to submit~~
50 ~~evidence of completion of] ; and~~

51 (d) *Completing* the required number of hours of continuing education. ~~[may~~
52 ~~be restored upon the licensee completing the continuing education, if such~~
53 ~~completion occurs during the calendar year in which the suspension has occurred.~~

1 ~~—3.]~~ 2. Any license suspended pursuant to the provisions of NRS 636.270
2 ~~[must be revoked at the end of the calendar year during which it was suspended]~~
3 ~~expires 91 days after the suspension of the license~~ unless the license is restored
4 pursuant to subsection 1. ~~for 2.]~~

5 **Sec. 35.** NRS 636.286 is hereby amended to read as follows:

6 636.286 An optometrist shall not administer or prescribe a ~~{therapeutic}~~
7 pharmaceutical agent ~~other than a diagnostic pharmaceutical agent~~ unless the
8 optometrist has obtained a certificate pursuant to NRS 636.288.

9 **Sec. 36.** NRS 636.287 is hereby amended to read as follows:

10 636.287 The Board shall adopt regulations which prescribe the requirements
11 for certification to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents
12 pursuant to NRS 636.288. The requirements must include:

13 1. A license to practice optometry in this State;

14 2. The successful completion of the “Treatment and Management of Ocular
15 Disease Examination” administered by the National Board of Examiners in
16 Optometry ~~[on or after January 1, 1993,]~~ or an equivalent examination approved by
17 the Board; and

18 3. The successful completion of not fewer than 40 hours of clinical training in
19 administering and prescribing ~~{therapeutic}~~ pharmaceutical agents in a training
20 program which is conducted by an ophthalmologist and approved by the Board.

21 **Sec. 37.** NRS 636.288 is hereby amended to read as follows:

22 636.288 The Board shall provide to:

23 1. Each optometrist who has complied with the requirements adopted by the
24 Board pursuant to NRS 636.287, a certificate to administer and prescribe
25 ~~{therapeutic}~~ pharmaceutical agents.

26 2. The State Board of Pharmacy the name of each optometrist it certifies
27 pursuant to this section.

28 **Sec. 38.** NRS 636.2881 is hereby amended to read as follows:

29 636.2881 The Board shall, by regulation, require each optometrist who is
30 certified to administer and prescribe ~~{therapeutic}~~ pharmaceutical agents pursuant
31 to NRS 636.288 and who is registered to dispense controlled substances pursuant to
32 NRS 453.231 to complete at least 2 hours of training relating specifically to the
33 misuse and abuse of controlled substances, the prescribing of opioids or addiction
34 during each period of licensure. Any licensee may use such training to satisfy 2
35 hours of any continuing education requirement established by the Board.

36 **Sec. 39.** NRS 636.2882 is hereby amended to read as follows:

37 636.2882 An optometrist who is certified to administer and prescribe a
38 ~~{therapeutic}~~ pharmaceutical agent pursuant to NRS 636.288 shall not prescribe ~~[an~~
39 ~~analgesic of hydrocodone with compounds, codeine with compounds or~~
40 ~~propoxyphene with compounds]~~ ~~a controlled substance~~ unless the optometrist:

41 1. Has completed an optometric examination of the patient for whom the
42 ~~{therapeutic pharmaceutical agent}~~ ~~controlled substance~~ is prescribed;

43 2. Prescribes the ~~{therapeutic pharmaceutical agent}~~ ~~controlled substance~~ in
44 an amount that ~~does not exceed 90 morphine milligram equivalents per day and~~
45 will not last more than 72 hours; and

46 3. Sets forth in the prescription for the ~~{therapeutic pharmaceutical agent}~~
47 ~~controlled substance~~ that the prescription may not be refilled ~~[.]~~ ~~without a~~
48 ~~subsequent examination of the patient by the optometrist.~~

49 **Sec. 40.** NRS 636.2891 is hereby amended to read as follows:

50 636.2891 1. An optometrist shall not treat a person diagnosed with
51 glaucoma unless the optometrist has been issued a certificate by the Board pursuant
52 to NRS 636.2895 ~~[.]~~ ~~or certification by endorsement pursuant to section 4.5 of~~
53 ~~this act.~~

2. An optometrist ~~[who]~~, *regardless of whether he or she* has been issued a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895 *or certification by endorsement pursuant to section 4.5 of this act*, shall refer a patient diagnosed with glaucoma to an ophthalmologist for treatment if any one of the following is applicable:

(a) The patient is under 16 years of age.

(b) The patient has been diagnosed with ~~[malignant]~~ *any type of* glaucoma ~~for neovascular]~~ *other than open angle* glaucoma.

(c) The patient has been diagnosed with acute closed angle glaucoma. The provisions of this paragraph do not prohibit the optometrist from administering *any* appropriate, *nonsurgical* emergency treatment to the patient.

~~[(d) The patient's glaucoma is caused by diabetes, and, after joint consultation with a physician who is treating the diabetes and an ophthalmologist, the physician or ophthalmologist determines that the patient should be treated by an ophthalmologist. If an optometrist determines that a patient's glaucoma is caused by diabetes, the optometrist shall consult with a physician and ophthalmologist in the manner provided in this paragraph.]~~

Sec. 41. NRS 636.2893 is hereby amended to read as follows:

636.2893 The Board shall adopt regulations that prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895. The requirements must include, without limitation:

1. A license to practice optometry in this State;

2. The successful completion of the "Treatment and Management of Ocular Disease Examination" administered by the National Board of Examiners in Optometry ~~[on or after January 1, 1993,]~~ or an equivalent examination approved by the Board; ~~[and]~~

3. Proof that each optometrist who applies for a certificate has treated at least 15 persons who were:

(a) Diagnosed with glaucoma by an ophthalmologist licensed in this State; and

(b) Treated by the optometrist, in consultation with that ophthalmologist, for at least 12 consecutive months ~~[;]~~ *and*

4. A certificate to administer and prescribe pharmaceutical agents issued pursuant to NRS 636.288.

Sec. 41.5. NRS 636.290 is hereby amended to read as follows:

636.290 *1. Any person licensed pursuant to the provisions of this chapter or engaged in the unlawful practice of optometry without a license may be disciplined by the Board for cause in the manner specified in this chapter. A person licensed to practice optometry in this State is subject to the jurisdiction of the Board for any act specified in this chapter, regardless of whether the license is expired, suspended or revoked.*

2. Unless the Board takes action pursuant to NRS 636.325, the Board may discipline a licensee for a violation of any provision of this chapter or regulation adopted pursuant to this chapter in one or more of the following ways, with or without the imposition by the Board of a monetary penalty:

(a) *Issuing a letter of public reprimand;*

(b) *Issuing an order to cease and desist;*

(c) *Issuing an order of probation for a specified period, with or without conditions;*

(d) *Issuing an order of suspension for a specified period, with or without conditions; or*

(e) *Issuing an order of revocation, with or without permission to apply for licensure at a future date.*

Sec. 42. NRS 636.295 is hereby amended to read as follows:

636.295 The following acts, conduct, omissions, or mental or physical conditions, or any of them, committed, engaged in, omitted, or being suffered by a licensee, constitute sufficient cause for disciplinary action:

~~1. [Affliction of the licensee with any communicable disease likely to be communicated to other persons.~~

~~—2.]~~ Commission by the licensee of a felony relating to the practice of optometry or a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.

~~[3. Conviction of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.~~

~~—4.]~~ 2. Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.

~~[5.]~~ 3. Habitual drunkenness or addiction to any controlled substance.

~~[6.]~~ 4. Gross incompetency.

~~[7.]~~ 5. Affliction with any mental or physical disorder or disturbance seriously impairing his or her competency as an optometrist.

~~[8.]~~ 6. Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.

~~[9.]~~ 7. Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.

~~[10.]~~ 8. Perpetration of unethical or unprofessional conduct in the practice of optometry.

~~[11. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:~~

~~—(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;~~

~~—(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or~~

~~—(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.~~

~~—12.]~~ 9. Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.

~~[13.]~~ 10. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This subsection applies to an owner or other principal responsible for the operation of the facility.

~~[14. Failure to obtain any training required by the Board pursuant to NRS 636.2881.~~

~~—15.]~~ 11. Failure to comply with the provisions of NRS 453.163, 453.164, 453.226, 639.23507, 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.

~~[46.]~~ 12. Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

~~13. [Failure to comply with any provision of chapter 89 of NRS relating to a professional entity or association that offers optometric services.]~~

~~14.]~~ Any violation of a state or federal law or regulation relating to or involving the practice of optometry, including, without limitation, a violation relating to:

(a) The organizational structure or control of any optometric practice or entity;

(b) The maintenance, availability or distribution of any medical record of a patient;

(c) The improper disclosure of any protected information of a patient; and

(d) Fraud.

Sec. 43. NRS 636.300 is hereby amended to read as follows:

636.300 The following acts, among others, constitute unethical or unprofessional conduct:

1. Association as an optometrist with any person, firm or corporation violating this chapter.

2. Accepting employment, directly or indirectly, from a person not licensed to practice optometry in this State to assist the person in such practice or enabling the person to engage therein, except as authorized in NRS 636.347.

3. Signing the prescription blanks of another ~~optometrist~~ **person** or allowing another ~~optometrist~~ **person** to use his or her prescription blanks.

~~[4. Except as otherwise provided in NRS 636.372 and 636.373, practicing in or on premises where any materials other than those necessary to render optometric examinations or services are dispensed to the public, or where a business is being conducted not exclusively devoted to optometry or other healing arts and materials or merchandise are displayed having no relation to the practice of optometry or other healing arts.]~~

Sec. 44. NRS 636.301 is hereby amended to read as follows:

636.301 The following acts, among others, constitute unethical or unprofessional conduct:

1. Division of fees with another optometrist or a health maintenance organization, except where the division is made in proportion to the services performed for the patient and the responsibility assumed by each.

2. Division of fees or any understanding or arrangement **which is designed or tends to impair, influence or affect the independent judgment or practice of the optometrist** with any person who is not an optometrist or a health maintenance organization, unless in accordance with NRS 636.374.

Sec. 45. NRS 636.302 is hereby amended to read as follows:

636.302 The following acts, among others, constitute unethical or unprofessional conduct:

1. ~~[Making a house-to-house canvass, either in person or by another person, for advertising, selling or soliciting the sale of eyeglasses, frames, lenses, mountings, or optometric examinations or services.]~~

~~2.]~~ Circulating or publishing, directly or indirectly, any false, fraudulent or misleading statement as to optometric materials or services, his or her method of practice or skill, or the method of practice or skill of any other licensee.

~~[3.]~~ 2. Advertising in any manner that will tend to deceive, defraud or mislead the public.

~~[4.]~~ 3. Advertising, directly or indirectly, free optometric examinations. ~~[for services.]~~

1 **Sec. 46.** NRS 636.305 is hereby amended to read as follows:

2 636.305 **1.** A complaint may be made against a licensee by:

3 ~~1.) (a) An [agent] employee or [inspector-employed by] contractor of the~~
4 Board; **or**

5 ~~2.) (b) Any [other] licensee [;] or~~

6 ~~3. Any aggrieved] other person,~~

7 **↪ [charging] alleging** one or more **[of the causes] grounds** for disciplinary action
8 ~~[with such particularity as to enable the defendant licensee to prepare a defense.] set~~
9 **forth in NRS 636.295.**

10 **2.** *As soon as practicable after a complaint is filed with the Board, the*
11 *Executive Director or his or her designee shall review the complaint. If the*
12 *Executive Director determines that the complaint is not frivolous and alleges one*
13 *or more of the grounds for disciplinary action set forth in NRS 636.295, the*
14 *Board, through the Executive Director, shall cause the complaint to be*
15 *investigated.*

16 **3.** *The Board shall retain each complaint received pursuant to this section*
17 *for not less than 10 years, including, without limitation, any complaint which is*
18 *not acted upon.*

19 **Sec. 47.** NRS 636.310 is hereby amended to read as follows:

20 636.310 **1.** A complaint ~~[must]~~ :

21 **(a) Must** be made in writing ~~[- The original complaint and two copies must be~~
22 ~~filed with the Executive Director. A complaint may] and be signed and sworn to or~~
23 ~~affirmed by the person making it.~~

24 **(b) May not** be filed anonymously ~~[- If a complaint is filed anonymously, the~~
25 ~~Board may accept the complaint but may refuse to consider the complaint if~~
26 ~~anonymity of the complainant makes processing the complaint impossible or unfair~~
27 ~~to the person who is the subject of the complaint.] , except that the identity of the~~
28 ~~complainant must remain confidential upon request by the complainant and until~~
29 ~~the complainant waives that confidentiality.~~

30 **2.** *If the Executive Director or his or her designee determines that a*
31 *complaint filed with the Board relates to any matter within the jurisdiction of*
32 *another regulatory body in this title or chapter 437 of NRS, the Executive*
33 *Director shall refer the complaint to the that regulatory body.*

34 **3.** *The provisions of subsection 2 do not prohibit the Executive Director or*
35 *his or her designee from investigating a complaint which relates to any matter*
36 *within the jurisdiction of the Board or from notifying the Board of that matter for*
37 *further consideration by the Board if deemed necessary by the Board after an*
38 *investigation.*

39 **4.** *Any member, employee, contractor or officer of the Board is immune*
40 *from any civil liability for any decision made or action taken in good faith and*
41 *without malicious intent in carrying out the provisions of this section.*

42 **Sec. 48.** (Deleted by amendment.)

43 **Sec. 48.3.** NRS 636.320 is hereby amended to read as follows:

44 636.320 ~~[The] Any disciplinary~~ hearing of a formal charge **relating to an**
45 **alleged ground for disciplinary action set forth in NRS 636.295** must be
46 conducted ~~[publicly by the Board. The licensee against whom the charge is filed~~
47 ~~must be accorded the right to appear in person and by legal counsel, and given~~
48 ~~adequate opportunity to confront the witnesses against him or her, to testify and~~
49 ~~introduce the testimony of witnesses in his or her behalf, and to submit argument~~
50 ~~and brief in person or by counsel.] in accordance with the provisions of chapters~~
51 **233B, 622 and 622A of NRS.**

1 **Sec. 48.6.** NRS 636.325 is hereby amended to read as follows:

2 636.325 1. ~~[Upon conclusion of the hearing, or waiver thereof by the person~~
3 ~~against whom the charge is filed, the Board shall make and announce its decision.]~~
4 If the Board ~~[determines that the allegations included in the charge are true,]~~ *finds*
5 *by a preponderance of the evidence that a person has engaged in one or more*
6 *grounds for disciplinary action set forth in NRS 636.295,* it may take any one or
7 more of the following actions:

8 (a) Publicly reprimand the licensee ~~[;]~~ *and impose any terms or conditions*
9 *deemed necessary by the Board;*

10 (b) Place the licensee on probation for a specified or unspecified period ~~[;]~~ *and*
11 *impose any conditions deemed necessary by the Board;*

12 (c) Suspend the ~~[licensee from practice for a specified or unspecified period;]~~
13 *license of the person for not more than 1 year and impose any terms or*
14 *conditions deemed necessary by the Board;*

15 (d) Revoke the ~~[licensee's]~~ license ~~[; or]~~ *of the person and impose any terms*
16 *or conditions for reinstatement of the license deemed necessary by the Board;*

17 (e) Impose an administrative fine pursuant to the provisions of NRS 636.420 ~~[;~~
18 ~~→ The Board may, in connection with a reprimand, probation or suspension,~~
19 ~~impose such other terms or conditions as it deems necessary.];~~

20 (f) *Limit the person's practice of optometry;*

21 (g) *Suspend the enforcement of any penalty by placing the person on*
22 *probation, which the Board may revoke if the person fails to comply with any*
23 *condition of probation imposed by the Board;*

24 (h) *Require the person to submit to the supervision of or counseling or*
25 *treatment by a person designated by the Board, and the person must be*
26 *responsible for any expense incurred for providing those services;*

27 (i) *Impose and modify any conditions of probation for the protection of the*
28 *public or the rehabilitation of the person;*

29 (j) *Require the person to pay for any costs of remediation or restitution; or*

30 (k) *Take any combination of the actions specified in paragraphs (a) to (j),*
31 *inclusive.*

32 2. ~~[If the Board determines that the allegations included in the charge are false~~
33 ~~or do not warrant disciplinary action, it shall dismiss the charge.~~

34 ~~—3.]~~ The Board shall not issue a private reprimand.

35 ~~[4.]~~ 3. An order that imposes discipline and the findings of fact and
36 conclusions of law supporting that order are public records.

37 **Sec. 48.9.** NRS 636.337 is hereby amended to read as follows:

38 636.337 1. Any disciplinary action taken by a hearing officer or panel
39 pursuant to NRS 636.110 is subject to the same procedural requirements which
40 apply to disciplinary actions taken by the Board, and the officer or panel has those
41 powers and duties given to the Board in relation thereto.

42 2. A decision of the hearing officer or panel relating to the imposition of an
43 administrative fine or penalty is a final decision in a contested case. ~~[Any party~~
44 ~~aggrieved by a decision of the officer or panel to revoke or suspend a license may~~
45 ~~appeal that decision to the Board.]~~

46 **Sec. 49.** NRS 636.350 is hereby amended to read as follows:

47 636.350 1. An optometrist shall not ~~[practice optometry]~~ *own all or any*
48 *portion of an optometry practice* under an assumed or fictitious name unless the
49 optometrist has been issued a certificate of registration by the Board to practice
50 optometry under ~~[an]~~ *the* assumed or fictitious name ~~[;]~~ *and at a specific location.*

51 2. An optometrist who applies for a certificate of registration to *own all or*
52 *any portion of an optometry* practice ~~[optometry]~~ under an assumed or fictitious
53 name must submit to the Board an application on a form provided by the Board.

The application must be accompanied by proof satisfactory to the Board that the assumed or fictitious name ~~meets the requirements of chapter 602 of NRS and~~ has been registered or otherwise approved by any appropriate governmental entity, including, without limitation, any incorporated city or unincorporated town in which the optometrist practices, if the registration or other approval is required by the governmental entity.

3. Each optometrist who is issued a certificate of registration pursuant to this section shall:

(a) Comply with the provisions of chapter 602 of NRS; ~~and~~

(b) Display or cause to be displayed near the entrance of his or her business the full name of the optometrist and the words or letters that designate him or her as an optometrist ~~and~~; *and*

(c) Display or cause to be displayed near the entrance of his or her business the full name of any optometrist who regularly provides optometric services at the business and the words or letters that designate him or her as an optometrist.

4. The Board shall adopt regulations that prescribe the requirements for the issuance of a certificate of registration to practice optometry under an assumed or fictitious name.

5. As used in this section, "assumed or fictitious name" means a name ~~[that is not the real]~~ *other than the* name of ~~[each person who owns an interest in a business.]~~ *the optometrist printed on his or her license to practice optometry.*

Sec. 50. NRS 636.355 is hereby amended to read as follows:

636.355 A licensee shall not ~~[be entitled to]~~ lend, sell, or otherwise ~~[dispose or]~~ permit the unauthorized use of his or her license or current renewal card.

Sec. 51. NRS 636.365 is hereby amended to read as follows:

636.365 The Board or the Executive Director may issue a duplicate license and renewal card *for each location at which a licensee practices optometry*, if ~~[a]~~ *the* licensee maintains more than one place of practice.

Sec. 52. NRS 636.370 is hereby amended to read as follows:

636.370 1. A person who has been issued an initial license to practice optometry in this State or who is re-establishing a practice in this State shall, before commencing the practice, notify the Executive Director, in writing, of the location or locations where the person intends to practice.

2. A licensee shall notify the Executive Director in writing before changing the location of his or her practice ~~and~~ *or establishing an additional location to practice optometry.*

Sec. 53. NRS 636.372 is hereby amended to read as follows:

636.372 1. ~~[An]~~ *Except as otherwise provided in subsection 4, an* optometrist may enter into an agreement with a person who is not licensed pursuant to the provisions of this chapter for the leasing of a building or a part thereof for use in his or her practice. The lease may contain a provision which requires that the rent must be based on a percentage of the revenue earned by the optometrist in his or her practice if the total amount of rent paid for the building or part thereof does not exceed its fair rental value, including any furniture, fixtures or equipment therein.

2. An optometrist who enters into such a lease with a physician may locate his or her office in the same place of business as the physician without a physical separation between the office and the place of business.

3. The Board may adopt regulations prescribing the requirements for such leases. The regulations must ensure the quality of optometric care and the practice of optometry without restricting competition or the commercial practice of optometry.

1 ***4. An optometrist shall not enter into a lease pursuant to this section unless,***
2 ***during the term of the lease, the optometrist maintains exclusive access to, and***
3 ***control and ownership of, the medical records of each patient of the optometrist.***

4 **Sec. 53.5.** NRS 636.373 is hereby amended to read as follows:

5 636.373 1. An optometrist may form an association or other business
6 relationship with a physician to provide their respective services to patients.

7 2. If such an association or business relationship is formed, the optometrist
8 may:

9 (a) Locate his or her office in the same place of business as the physician
10 without a physical separation between the office and the place of business.

11 (b) Authorize the physician to have access to any medical records in the
12 possession of the optometrist relating to a patient who is being treated by both the
13 optometrist and the physician.

14 (c) Advertise and promote the services provided by the association or business
15 consistent with the restrictions on advertising set forth in NRS 636.302.

16 ***3. A person shall not directly or indirectly supervise an optometrist within***
17 ***the scope of his or her practice of optometry unless the person is licensed to***
18 ***practice optometry pursuant to this chapter.***

19 ***4. A person, including an officer, employee or agent of any commercial or***
20 ***mercantile establishment, shall not directly or indirectly control, dictate or***
21 ***influence the professional judgment of the practice of optometry by a licensed***
22 ***optometrist, unless the person is licensed to practice optometry pursuant to this***
23 ***chapter.***

24 **5.** This section does not authorize an optometrist to employ or be employed
25 by a physician.

26 **Sec. 54.** NRS 636.374 is hereby amended to read as follows:

27 636.374 An optometrist may, based upon the individual needs of a particular
28 patient, collaborate with an ophthalmologist for the provision of care to the patient,
29 for a fixed fee, regarding one or more surgical procedures if:

30 1. The collaborating parties prepare and maintain in their respective medical
31 records regarding the patient, written documentation of each procedure and other
32 service performed by each collaborating party which includes the date each
33 procedure and other service is performed;

34 2. The fixed fee is divided between the collaborating parties in proportion to
35 the services personally performed by each of them;

36 3. The collaborating parties agree that the collaborating optometrist will refer
37 the patient back to the collaborating ophthalmologist or, if the collaborating
38 ophthalmologist is not available, another ophthalmologist designated by the
39 collaborating ophthalmologist to provide care to the patient if the medical needs of
40 the patient necessitate the provision of care by an ophthalmologist; and

41 4. The collaborating parties provide to the patient and maintain in their
42 respective medical records regarding the patient, a written document, signed by
43 each of the collaborating parties and the patient, containing:

44 (a) The name, business address and telephone number of each of the
45 collaborating parties;

46 (b) The amount of the fixed fee for the procedures and services;

47 (c) The proportion of that fee to be received by each collaborating party;

48 (d) A statement, signed by the patient and a witness who is not one of the
49 collaborating parties, that the patient voluntarily, knowingly and willingly desires
50 the performance of the postoperative care by the collaborating optometrist;

51 (e) A statement that the patient is entitled to return to the collaborating
52 ophthalmologist for postoperative care at any time after the surgery; and

53 (f) A statement which:

(1) Indicates that the practice of optometry *is regulated by the Nevada State Board of Optometry* and *the practice of ophthalmology [are respectively] is regulated by the [Nevada State Board of Optometry and the] Board of Medical Examiners [.] or the State Board of Osteopathic Medicine, as applicable;* and

(2) Contains the address and telephone number of each of those Boards.

Sec. 55. NRS 636.375 is hereby amended to read as follows:

636.375 1. *Service of process made under this chapter must be made by one of the following methods:*

(a) *Sending the process to be served to the person by certified mail at his or her last known address as indicated in the records of the Board; or*

(b) *Personal delivery of the document to be served upon the person.*

2. *Service of process made under this chapter shall be deemed complete when a true and correct copy of the document, properly addressed and stamped, is deposited in the United States mail pursuant to paragraph (a) of subsection 1, or when personal delivery is completed pursuant to paragraph (b) of subsection 1.*

3. Any notice *which is not* required to be ~~[given by the Board or the Executive Director to a licensee]~~ *served in accordance with subsection 1 or 2* may be transmitted by ~~[ordinary]~~ :

~~[first class, certified or registered]~~

(a) *First-class* mail, postage prepaid, addressed to the licensee at the location listed by the ~~[Executive Director for that]~~ licensee ~~[.] on his or her most recent change of address form or application for the renewal of his or her license or the last known address as indicated in the records of the Board for any other person;~~

(b) *Electronic mail to the address for electronic mail most recently provided by the person to the Board; or*

(c) *Facsimile machine to the number most recently provided by the person to the Board.*

Sec. 56. NRS 636.382 is hereby amended to read as follows:

636.382 ~~[.]—No]~~ *Any* licensed optometrist may administer topical *diagnostic* ophthalmic ~~[pharmaceutical]~~ agents . ~~[unless the optometrist has received certification from the Board authorizing him or her to do so.~~

~~—2. The Board shall adopt regulations prescribing the diagnostic uses to which the agents enumerated in subsection 3 may be put, the manner in which such agents may be used, and the qualifications and requirements for such certification which must include:~~

~~—(a) A valid license to practice optometry in this State;~~

~~—(b) Satisfactory completion of a curriculum approved by the Board, which must include general and ocular pharmacology, at an institution approved by the Board and accredited by a regional or professional accrediting organization and recognized or approved by the Council on Post Secondary Accreditation, the Northwest Accreditation Association or the United States Department of Education; and~~

~~—(c) Successful completion of an appropriate examination approved and administered by the Board.~~

~~—3. The following topical ophthalmic pharmaceutical agents may be used for diagnostic purposes by an optometrist who has been authorized by the Board to do so:~~

~~—(a) Mydriatics;~~

~~—(b) Cycloplegics;~~

~~—(c) Topical anesthetics; and~~

~~—(d) Miotics.]~~

1 **Sec. 57.** NRS 636.387 is hereby amended to read as follows:

2 636.387 1. The form for any prescription which is ~~issued for an ophthalmic~~
3 ~~lens by an optometrist in this State must contain lines or boxes in substantially the~~
4 ~~following form:~~

5
6 ~~Approved for contact lenses.....~~
7 ~~Not approved for contact lenses.....~~
8

9 ~~— 2. The prescribing optometrist shall mark or check one of the lines or boxes~~
10 ~~required by subsection 1 each time such a prescription is issued by the optometrist.~~

11 ~~— 3. If the prescription is~~ for a contact lens ~~[, the form]~~ must set forth the
12 expiration date of the prescription, the number of ~~[refills]~~ *contact lenses* approved
13 for the patient and such other information as is necessary for the prescription to be
14 filled properly. *A prescription for spectacle lenses must not be construed to be*
15 *approved for or converted to a prescription for contact lenses unless contact*
16 *lenses are expressly approved in writing on the prescription by the prescribing*
17 *optometrist.*

18 ~~[4.]~~ 2. The initial fitting of a contact lens must be performed by an
19 ophthalmologist or optometrist licensed in this State.

20 ~~[5.]~~ 3. As used in this section, “initial fitting” means measuring the health,
21 integrity and refractive error of the eye to determine whether contact lenses ~~[may be~~
22 ~~approved pursuant to subsection 1.]~~ *are appropriate for the patient.*

23 **Sec. 57.5.** ~~[NRS 636.407 is hereby amended to read as follows:~~

24 ~~— 636.407 The Board may cause appropriate legal action to be taken in the~~
25 ~~district court of any county to secure an injunction or order restraining the~~
26 ~~unauthorized practice of optometry. An injunction may be issued pursuant to this~~
27 ~~section without proof of actual damage sustained by a person and does not relieve~~
28 ~~a person from any criminal prosecution for any unauthorized practice of~~
29 ~~optometry.] (Deleted by amendment.)~~

30 **Sec. 58.** ~~[NRS 636.410 is hereby amended to read as follows:~~

31 ~~— 636.410 A violation of this chapter shall constitute a gross misdemeanor and~~
32 ~~shall be punishable as such. [, unless a greater penalty is provided pursuant to NRS~~
33 ~~200.830 or 200.840.]] (Deleted by amendment.)~~

34 **Sec. 59.** NRS 636.420 is hereby amended to read as follows:

35 636.420 ~~[Any]~~ *After providing notice and a hearing pursuant to chapter*
36 *622A of NRS, the Board may impose an administrative fine of not more than*
37 *\$5,000 for each violation against a* person licensed under this chapter who
38 ~~[violates any provision of this chapter or any regulation of the Board relating to the~~
39 ~~practice of optometry is liable to the Board for an administrative fine of not less~~
40 ~~than \$100 or more than \$5,000.]~~ *engages in any conduct constituting grounds for*
41 *disciplinary action set forth in NRS 636.295.*

42 **Sec. 60.** NRS 639.0125 is hereby amended to read as follows:

43 639.0125 “Practitioner” means:

44 1. A physician, dentist, veterinarian or podiatric physician who holds a license
45 to practice his or her profession in this State;

46 2. A hospital, pharmacy or other institution licensed, registered or otherwise
47 permitted to distribute, dispense, conduct research with respect to or administer
48 drugs in the course of professional practice or research in this State;

49 3. An advanced practice registered nurse who has been authorized to
50 prescribe controlled substances, poisons, dangerous drugs and devices;

51 4. A physician assistant who:

52 (a) Holds a license issued by the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;

5. A physician assistant who:

(a) Holds a license issued by the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

6. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~{therapeutic}~~ pharmaceutical agents within the scope of his or her certification.

Sec. 61. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his or her profession in this State and is registered pursuant to this chapter.

2. An advanced practice registered nurse who holds a certificate from the State Board of Pharmacy authorizing him or her to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he or she possesses or administers sodium pentobarbital pursuant to his or her license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of NRS.

6. A physician assistant who:

(a) Holds a license from the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~{therapeutic}~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~{therapeutic}~~ pharmaceutical agents within the scope of his or her certification.

Sec. 62. NRS 454.00958 is hereby amended to read as follows:

454.00958 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a valid license to practice his or her profession in this State.

2. A pharmacy, hospital or other institution licensed or registered to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice in this State.

3. When relating to the prescription of poisons, dangerous drugs and devices:

(a) An advanced practice registered nurse who holds a certificate from the State Board of Pharmacy permitting him or her so to prescribe; or

(b) A physician assistant who holds a license from the Board of Medical Examiners and a certificate from the State Board of Pharmacy permitting him or her so to prescribe.

4. An optometrist who is certified to prescribe and administer ~~dangerous drugs~~ **pharmaceutical agents** pursuant to NRS 636.288 when the optometrist prescribes or administers dangerous drugs which are within the scope of his or her certification.

Sec. 63. Notwithstanding the amendatory provisions of:

1. Section 20 of this act, the schedule of fees established by the Nevada State Board of Optometry pursuant to NRS 636.143 remains in effect until the Board establishes a revised schedule of fees pursuant to NRS 636.143, as amended by section 20 of this act.

2. Section 27 of this act, a license to practice optometry executed pursuant to NRS 636.215 remains in effect for the period for which the license was issued, if the person to whom the license was issued remains eligible to hold the license during that period.

3. Section 36 of this act, any regulations adopted by the Nevada State Board of Optometry prescribing the requirements for certification to administer and prescribe a therapeutic pharmaceutical agent pursuant to NRS 636.287 remain in effect until the Board amends the regulations in accordance with NRS 636.287, as amended by section 36 of this act.

4. Section 37 of this act, a certificate to administer or prescribe a therapeutic pharmaceutical agent issued in accordance with the provisions of NRS 636.288 remains in effect for the period for which the certificate was issued, if the person to whom the certificate was issued otherwise remains eligible to hold the certificate during that period.

5. Section 40 of this act, any regulations adopted by the Nevada State Board of Optometry which prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2893 remain in effect until the Board adopts regulations in accordance with NRS 636.2893, as amended by section 41 of this act.

Sec. 64. NRS 636.024, 636.160, 636.175, 636.195, 636.200, 636.220, 636.315, 636.330, 636.335, 636.336, 636.341 and 636.385 are hereby repealed.

Sec. 65. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2019, for all other purposes.

LEADLINES OF REPEALED SECTIONS

636.024 “Therapeutic pharmaceutical agent” defined.

636.160 Application for examination.

636.175 Equipment required for examination.

636.195 Request for reexamination.

636.200 Scope of reexamination.

636.220 Licenses: Issuance.

636.315 Procedure following filing of complaint; retention of complaints.

636.330 Application for rehearing.

636.335 Rehearing: Notice to licensee; conduct; decision.

636.336 Board to cooperate with other agencies investigating persons.

636.341 Practicing or offering to practice without license: Reporting requirements of Board.

636.385 Use of and payment for optometric services by administrative agencies and public schools.