

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Eightieth Session  
February 25, 2019**

The Committee on Commerce and Labor was called to order by Chair Ellen B. Spiegel at 1:34 p.m. on Monday, February 25, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/80th2019](http://www.leg.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Ellen B. Spiegel, Chair  
Assemblyman Jason Frierson, Vice Chair  
Assemblywoman Maggie Carlton  
Assemblyman Skip Daly  
Assemblyman Chris Edwards  
Assemblywoman Melissa Hardy  
Assemblywoman Sandra Jauregui  
Assemblyman Al Kramer  
Assemblywoman Susie Martinez  
Assemblyman William McCurdy II  
Assemblywoman Dina Neal  
Assemblywoman Jill Tolles  
Assemblyman Steve Yeager

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Patrick Ashton, Committee Policy Analyst  
Wil Keane, Committee Counsel

Minutes ID: 305



Katelyn Malone, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Caren C. Jenkins, Executive Director, Nevada State Board of Optometry  
Mariah Smith, Board Member, Nevada State Board of Optometry  
Jonathan D. Mather, Legislative Committee Chair, Nevada Optometric Association  
Michael D. Hillerby, representing Nevada Optometric Association  
Mark Lee, President, Nevada Optometric Association  
Jeffrey K. Austin, Board Member, Nevada State Board of Optometry  
Helga F. Pizio, Ophthalmologist, Comprehensive Eye Care Partners, Las Vegas,  
Nevada  
Michael Roth, Optometrist, Advanced Vision Institute, Las Vegas, Nevada  
Adam J. Rovit, President, Nevada Academy of Ophthalmology  
Mark Stradling, Ophthalmologist, Nevada Eye Physicians, Las Vegas, Nevada  
Timothy Moore, Optometrist, Epic Vision Development, Reno, Nevada  
Mark M. Myers Jr., Acting Secretary, Board of Dispensing Opticians  
K. Neena Laxalt, representing Board of Dispensing Opticians  
Corinne Sedran, Executive Director, Board of Dispensing Opticians  
Tamara Sternod, Board Member, Board of Dispensing Opticians  
Liz MacMenamin, Vice President of Government Affairs, Retail Association of  
Nevada  
Catherine M. O'Mara, Executive Director, Nevada State Medical Association

**Chair Spiegel:**

[Roll was taken. Committee rules and protocols were explained.] We will begin with a presentation from our Committee Counsel, Wil Keane.

**Wil Keane, Committee Counsel:**

I will note that I am part of the nonpartisan staff at the Legislature, so I do not advocate for or argue against any piece of legislation, including the one being presented today. Today I will provide a brief overview of the differences between the scopes of practice and the educational requirements in Nevada for the primary types of licensed professionals who handle eyes and eyeglass prescriptions—dispensing opticians, optometrists, and ophthalmologists.

A dispensing optician provides eyeglasses and contact lenses in accordance to a prescription written by an optometrist or an ophthalmologist. An optometrist is a doctor of optometry who examines eyes and writes prescriptions for glasses and contact lenses. An ophthalmologist is a physician, either a licensed allopathic physician or a licensed osteopathic physician, who is certified in the specialty of ophthalmology, meaning that the physician specializes in diseases of the eye, may perform surgery on eyes, and may write prescriptions for eyeglasses and contact lenses.

The following is a brief overview of the education and training requirements in Nevada for these various licensed professionals. A dispensing optician generally must be a high school graduate, and may complete an associate of applied science (AAS) degree with a focus on ophthalmic dispensing and one year as a dispensing optician's apprentice. As an alternative to the AAS degree and one year as an apprentice, a dispensing optician may complete three years as a dispensing optician's apprentice. Finally, a dispensing optician must complete a course of instruction, approved by their board, on the fitting of contact lenses, and 100 hours of training and hands-on experience in fitting and filling prescriptions for contact lenses.

Nevada statutes currently provide that optometrists must complete at least two years of study at a college or university with optometry prerequisites and graduate from a school of optometry, which is generally a four-year program. The bill we will hear today seeks to change those requirements. An ophthalmologist, as previously mentioned, is a physician, either an allopathic physician or an osteopathic physician, and must complete the education and training requirements to be a physician—a four-year course of premedical study at a college or university, a four-year course of study at a medical school or school of osteopathic medicine, and three or more years in a residency program or similar alternative. The ophthalmologist must then be certified in the specialty of ophthalmology by one of the statutorily accepted national certification boards, which may include completion of special internships or residencies.

**Assemblywoman Tolles:**

Is this information available online for the public and the Committee to view?

**Wil Keane:**

It is not online yet, but it will be.

[Presentation talking points were submitted as ([Exhibit C](#)).]

**Assemblyman Kramer:**

Could you clarify again what the differences are in education requirements of an ophthalmologist and an optometrist?

**Wil Keane:**

According to statute, an optometrist is required to complete two years of undergraduate prerequisites and graduate from a school of optometry, which is generally a four-year program. Most optometry schools seem to require a bachelor's degree, so an optometrist likely has completed four years of undergraduate school and four years at a school of optometry, although that is not technically written in statute. An ophthalmologist is a specialty doctor, either a licensed allopathic physician, which is a doctor licensed under *Nevada Revised Statutes* (NRS) Chapter 630, or a licensed osteopathic physician, which is a doctor licensed under *Nevada Revised Statutes* (NRS) Chapter 633. These doctors have completed premedical undergraduate school, medical school, a residency program, and have chosen a specialty. A doctor can specialize as a cardiologist, a dermatologist, or a surgeon, but in this case they have chosen to specialize in ophthalmology. A national certification

board certifies physicians in this specialty. There are various requirements, which oftentimes include an additional internship or residency and testing. I did not review the various testing requirements of these occupations today as they are rather detailed.

**Assemblyman Kramer:**

To clarify, both an optometrist and an ophthalmologist have gone to medical school and are considered doctors, but one has completed an additional residency requirement and chosen to specialize in the treatment of the eye, while the other has completed medical school studies focused specifically on the eye. Is that correct?

**Wil Keane:**

It is my understanding that an optometrist has not gone to medical school, but has attended a school for optometry.

**Chair Spiegel:**

We will have the Nevada State Board of Optometry clarify this in their presentation as well. We will now open the hearing on Assembly Bill 77.

**Assembly Bill 77: Makes various changes to provisions governing the practice of optometry. (BDR 54-366)**

**Caren C. Jenkins, Executive Director, Nevada State Board of Optometry:**

In response to Mr. Keane's comments, I would like to clarify that the Nevada State Board of Optometry is not proposing any changes to the optometrists' educational requirements in the state. That is not included in the language of Assembly Bill 77 or in any other legislation this year. I will go through a brief PowerPoint presentation (Exhibit D) in my introduction, which will again delineate opticians, optometrists, and ophthalmologists [page 2]. Finally, while there are no education requirements in statute for optometrists, the accredited schools of optometry in North America that are recognized for licensure all require a bachelor of science degree for admission, which includes the two years of prerequisites that Mr. Keane was alluding to. Optometry school differs from medical school in that its studies are solely related to conditions of the eye. It is not a generic physician education. Instead of receiving a doctor of osteopathic medicine (D.O.) degree or a doctor of medicine (M.D.) degree, one receives a doctor of optometry (O.D.) degree.

The Optometry Board was established in Nevada in 1913 [page 5]. The optometry profession has been around for over 100 years in the state of Nevada, and is regulated by the Nevada State Board of Optometry. The profession has had an inglorious past, as there has not been a lot of controversy around optometry during the past 100 years or so. As a result, the Optometry Board has had very little interaction with the Legislature, particularly in the last 30 years. There have been very few updates to the optometry statute in this time.

The way I remember the difference between an optometrist, an ophthalmologist, and an optician is by mnemonic device. The shorter the word, the shorter the education requirement. An optician is required to have an associate's degree and certain certifications.

An optometrist is required to have a bachelor's degree and to attend optometry school, whereas an ophthalmologist is a doctor.

An optometrist, or an O.D., is who the Board regulates, and is an eye doctor, rather than a physician. They perform comprehensive eye exams, prescribe eyeglasses and contact lenses for vision correction, and are often assigned to pre- and post-operative care for people who have had Lasik, cataract surgery, or other sorts of procedures that are performed by physicians. Optometrists do not perform surgery. In optometry school, optometrists are also trained to diagnose and treat eye conditions, such as infections, eye problems and diseases, glaucoma, nearsightedness, farsightedness, and sexually transmitted diseases of the eye, which has been one of the more popular continuing education programs as of late. Some optometrists also do low vision services, vision therapy, and vision rehabilitation. For example, a patient with an eye that does not track with the other may need services and therapies that an optometrist can prescribe and perform. An optometrist is required to complete a four-year doctorate program in optometry, but many optometrists complete more schooling than that. Optometrists can receive, for example, a postdoctoral certification in glaucoma if they want to focus on glaucoma patients.

An ophthalmologist is a medical doctor who has completed generic medical school and has chosen to do an ophthalmology residency. Ophthalmologists perform exams, diagnose and treat diseases, and write prescriptions just like optometrists, but they also perform eye surgeries. In recent years, most ophthalmologists are solely focusing on performing Lasik and cataract surgeries, and surgeries for macular degeneration and detached retinas, because of the demand for these services. They do not have the time for the pre- and post-operative care, so they delegate the care to an optometrist with whom they work. They have a four-year medical degree, one year of internship experience, and three years in a hospital-based ophthalmologic residency program with training in the diagnosis and medical and surgical treatment of eye disorders.

An optician is not an eye doctor, and therefore cannot perform eye exams. They cannot diagnose or treat eye and vision problems, or write prescriptions for glasses, contact lenses, or medications. Opticians in Nevada are regulated by the Board of Dispensing Opticians. Dispensing is exactly what opticians do—they fill prescriptions for either glasses or contact lenses. They fit and sell eyeglasses that are prescribed by optometrists and ophthalmologists, and sell sunglasses and other nonprescription eyewear. There are no education requirements for opticians in statute, but Nevada does have specific training and licensure requirements. An associate degree allows an optician to bypass a portion of the apprenticeship requirements. I believe it is required to have 1,000 apprenticeship hours plus your degree, or at least 2,000 hours over three years in the lab and at the fitting table in lieu of a degree. Those with high school diplomas can spend three years as an apprentice to become an optician.

The State Board of Optometry comprises four members who are appointed by the Governor. Three of them are optometrists and one is a member of the public. In the past two years, Governor Sandoval had reappointed one of our Board members, and appointed two new

ones. We have one and a half full-time-equivalent staff members. I am one, and we have a licensing specialist on staff who processes the renewal and applications for licensure, and is my administrative assistant. The Board meets approximately six times per year, as needed, depending on the number of complaints we receive. We do not receive funds from the State General Fund, as all of our operations are funded by license fees. At this time, we license approximately 500 licensees [page 5, ([Exhibit D](#))]. There is not a large number of optometrists in Nevada. Based on the input that the Board has received, we need more of them, so we want to make Nevada a welcoming state for optometrists. When we do impose penalties for violations of our statute, those funds are forwarded to the State Treasurer for deposit into the State General Fund. There is no incentive to impose larger, or smaller, fines upon our licensees who violate the statute. When we assess administrative fees, such as late fees for renewing a license, those fees go to the agency.

It is important to keep in mind the role of the Optometry Board, as it may provide you with some background for the requested changes in our measure [page 6]. First and foremost, the Board ensures the protection of the Nevada public. This is something that we take very seriously. Unqualified individuals performing eye exams and practicing on patients can cause great harm. If a person's vision is ruined, it often does not return to its previous state. The protection of the Nevada public, both financially and in regard to eye health, is the Board's primary role. Secondly, the Board enhances and maintains the integrity of the profession. This is a self-imposed role, and the role that I enjoy carrying out the most, because it allows me to help people be certain that Nevada's optometrists are practicing to the full extent of their training.

We license optometrists, but we also offer certifications for pharmaceutical agents, glaucoma practice, and other special abilities. Currently, we do not certify any other special abilities, but we have the ability in statute to do that. We respond to and investigate public complaints. The Board hears complaints in evidentiary hearings when necessary, and imposes penalties. We are a point of contact and a source of information for the public and for our licensees. We often hear from our licensees when they have questions or need resources. We can put them in touch with those who can mentor them, or provide them with information. We recently had a licensee in Las Vegas pass away. His office is locked, with all his patient's health records inside. The optical dispensary in which his office is located has no access to the files, because it is required by statute to protect the public's health information. The Board is currently trying to figure out how to assist in getting those health records to the patients. This is not a service that is required by statute, but a service we provide.

Maintaining relationships with other licensing boards has been one of our biggest challenges in the past. We have never had a problem working with the State Board of Pharmacy; they were very cooperative and helpful with the prescription management program and controlled substances legislation from the last session. From time to time, we have had disagreements with the Board of Dispensing Opticians, the Board of Medical Examiners, and the State Board of Osteopathic Medicine. In writing [A.B. 77](#), we came to a point of respectful disagreement with one of these boards; the individual missions of our boards made us unable

to come to a compromise. Hopefully you, as legislators, can find a policy solution for that issue. We are also a member of the Association of Regulatory Boards of Optometry, and other optometry entities throughout the nation and the world.

Optometry practices exist in all but five counties in Nevada. On this page [page 8, [\(Exhibit D\)](#)], you can see that we have large clusters of optometrists in the Reno/Sparks and Las Vegas areas, not unlike other businesses and practices in the state. However, I am pleased to see that the number of practices in other counties is significant as well. The darker the color of red on the map, the more practices exist in that county. Elko, Nye, and Churchill Counties have more practices than others, in addition to Clark and Washoe Counties. Page 7 ([Exhibit D](#)) shows that ophthalmologists practice only in Washoe and Clark Counties. Under no circumstances does the Board of Optometry want to limit telemedicine; however, it is not included in [A.B. 77](#). We did write a mobile optometry provision in [A.B. 77](#), but it was inadvertently left out of the final version of *Nevada Revised Statutes* (NRS) Chapter 636 that I have provided to the Committee ([Exhibit E](#)). I have provided a one-page handout to the Committee with information on mobile optometry clinics ([Exhibit F](#)), which will also be available on the Nevada Electronic Legislative Information System (NELIS).

**Chair Spiegel:**

We need to be able to work from the bill. As we are going through your proposed amendment, it needs to be in the form of a bill so we can follow along.

**Caren Jenkins:**

This is a dilemma, because [A.B. 77](#) proposes such a comprehensive change. The statute has not been revised for a long time, and it made more logical sense to piece together the proposed changes with the current statute. So that the changes are not taken out of context, I have provided a copy of the statute, with [A.B. 77](#) and the proposed amendment incorporated for ease of reading. If the Committee needs us to go through the proposed changes in [A.B. 77](#), we will do our best to do so.

**Chair Spiegel:**

Yes, we need to work from the bill. You may talk us through the policy changes that you are proposing, and we will ask questions about sections within the bill. But I will ask you to work with a group, consisting of someone from this Committee and legislative staff, to revise the bill to reflect what needs to be considered.

**Caren Jenkins:**

That sounds great. *Nevada Revised Statutes* (NRS) Chapter 636 discusses optometry in Nevada. The Board has long recognized that the chapter needs a complete overhaul. For example, current statute provides that all communications with the Board must be by certified mail. But in the last two years, we have conducted business electronically, allowing for licensure and renewal through our website. This is inconsistent with the statute. If we are not following the law, it makes it difficult to ask our licensees to do so. We have held stakeholder meetings in both Reno and Las Vegas, hosted a number of conference calls with all members of the Nevada Optometric Association so that all licensees in the state could

provide input, and held public meetings as a Board and town hall meetings. We received a lot of input from all parties, which we will be reviewing today. We emailed drafts of the prefiled bill, as well as the proposed changes, to all of our optometrists, asking them to offer feedback at least two or three times along the way. We have had a lot of one-on-one discussions with the Board of Dispensing Opticians, and other individuals and professionals in the optometry industry, including the Nevada Academy of Ophthalmology, who also worked with the Nevada State Medical Association. We met with dispensing opticians and invited them to participate in our stakeholder meetings. A representative came to both the Reno stakeholders' meeting and the Board's public hearing on the adoption of the proposed revisions. All input was considered when drafting the final version of this bill.

The current vice president of the Nevada State Board of Optometry, Dr. Mariah Smith, led the Board's efforts in developing this proposal, and has worked tirelessly for over a year on this measure, along with our president, Chen Young. Jeffrey Austin, a board member, has been our liaison for ophthalmology and optometry, to discuss ways to make the bill work for the patient and for the professionals. Drew Johnson, our public board member, provides insight from the patient's perspective. I think we have received a lot of great input. The amount of time and energy that these people have put into this bill is overwhelming. We would also like to thank this Committee for sponsoring the measure on our behalf, which has made this entire process a positive experience.

**Assemblyman Yeager:**

Can an optometrist also be a dispensing optician? Or is that not allowed under the statute?

**Caren Jenkins:**

An optometrist is able, with their license, to dispense eyeglasses and contact lenses. They are not regulated by the Board of Dispensing Opticians, and therefore are not dispensing opticians, but dispensing is part of their license and scope of practice.

**Assemblyman Yeager:**

You mentioned that optometrists typically have some sort of partnership with an ophthalmologist in case a patient needs surgery that an optometrist cannot perform. Looking at the map, there are significantly more optometrists in more areas of our state than ophthalmologists. How is the relationship between the two forged in a county where there are no practicing ophthalmologists? Does the patient have to travel to either Clark or Washoe Counties?

**Caren Jenkins:**

Optometrists do not need to have a relationship with an ophthalmologist. However, many ophthalmologists associate with optometrists to provide pre- and post-operative services. At one point or another, every optometrist will come across patients who need to be referred to an ophthalmologist. If the patient lives in the middle of our state, it is likely they will have to travel. A glaucoma certification requires an optometrist to co-manage 15 patients with an ophthalmologist over the course of a year. The ophthalmologist is not necessarily seeing the patient, but the ophthalmologist reviews the diagnosis, reviews the treatment plan, and



coordinates with the optometrist before he can be awarded a glaucoma certification. There are many cooperative relationships between optometrists and ophthalmologists, and the affiliation with an ophthalmologist to obtain a glaucoma certification fosters those relationships.

**Mariah Smith, Board Member, Nevada State Board of Optometry:**

I will present a summary of Assembly Bill 77 and the Board's proposed amendment that we have worked with ophthalmologists and opticians to write. As Ms. Jenkins mentioned, much of our bill and amendment clean up the statute's language, to modernize it and make the Board's day-to-day functions easier and in compliance with the statute. For example, our examinations and renewals are now both conducted online. The law examination is accessible to applicants across the country and no longer requires applicants to take the exam in person in Carson City. Assembly Bill 77 reworks this language. Assembly Bill 77 allows the Board to communicate with licensees via email, instead of via certified mail. It eliminates certain grounds for discipline, such as communicable diseases and marijuana usage. The bill suspends a license that is not renewed within 90 days after its expiration. It lessens the burden on the Board and licensees by changing the renewal period of a license from one year to two years, while maintaining one of the highest standards for continuing education in the country. The bill adds electronic advertising as a form of advertising that is regulated by the Board. Currently, the statute only allows the Board to regulate print and broadcast advertising.

Assembly Bill 77, with its proposed amendment, also proposes minor scope-of-practice changes and clarifies "gray area" that is currently in statute. It adds language for glaucoma certification by endorsement, which will create more access to care and allow more well-qualified optometrists to monitor and treat patients with glaucoma. The amendment adjusts the language regarding which types of glaucoma patients an optometrist can care for. For example, when a patient has closed-angle glaucoma due to an anatomical structure or new blood vessel growth, called neovascularization, the patient often needs surgical intervention with an ophthalmologist. After the surgical intervention, the patient no longer has the risk for closed-angle glaucoma or further glaucomatous damage. The amendment states that the optometrist can manage any form of open-angle glaucoma. This would allow the patient who had their closed-angle glaucoma previously treated by an ophthalmologist to return to the optometrist for care.

The bill would create a new sector of practice—the mobile optometry clinic. This would improve access to care in underserved populations in Nevada, and hopefully attract more practitioners to the rural parts of our state.

Currently, statute allows optometrists to prescribe hydrocodone, but it does not allow optometrists to prescribe safer, less addictive pain medications. The "therapeutic pharmaceutical agent" definition is revised in A.B. 77 to include any schedule III through V drug that is prescribed for the eye and its appendages, allowing optometrists to prescribe safer medications. Highly addictive hydrocodone will not be included in this new definition, and could no longer be prescribed by optometrists.

Assembly Bill 77 adds explanation to the prohibition on division of fees, and on arrangements that tend to impair or influence the independent judgment of the optometrist. The bill revises the requirements for prescription forms, specifically for contact lenses. When we write prescriptions for contact lenses, there are specifications that designate it as a contact lens prescription—brand or material, base curve, and the quantity that can be dispensed. These specifications are not included on a glasses or spectacle prescription. Currently, the statute requires us to check a box on the spectacle prescription to designate if it is approved to be used for contact lenses. This is illogical, since a spectacle prescription does not include the specifications that deem it a contact lens prescription. Additionally, many electronic medical records systems that we are required to use do not allow us to add this custom check-box to a spectacle prescription. Assembly Bill 77 removes the requirement to use a check-box.

Assembly Bill 77 also expands the definition of "diagnostic agents" to include any agent used to examine and diagnose conditions of the eye, allowing optometrists to use new medications that are developed. It allows optometrists to delegate data collection and other tasks to an employee assistant, while the optometrist performs the refraction, examination, diagnosis, and management. It needs to be clear that the assistant is acting under the optometrist's license, as an employee of the optometrist himself, or under the medical facility affiliated with the optometrist, such as a veterans' clinic or the Indian Health Service. If a problem were to arise with an assistant, we need to know if it is under the Board's jurisdiction to address the problem. The assistant must also not be a source of outside influence on the optometrist, which could be the case if the assistant is employed by an outside entity. In addition to the proposed amendment, I would suggest that the assistant specifically be an employee of the medical facility affiliated with the optometrist. An optometrist can work with groups that are not medical-based and have a different purpose than the treatment of patients. We need to be clear that the assistant is working with the optometrist on the medical side of their practice.

**Chair Spiegel:**

Is that in the bill or the amendment?

**Mariah Smith:**

It is in the amendment.

**Chair Spiegel:**

In which section?

**Caren Jenkins:**

We did not come prepared to walk through the measure as a bill. Section 10 proposes changes to NRS 636.025. On page 3 of the document ([Exhibit E](#)) that is on the screen, you will see that in subsection 3 it is proposed to add an assistant, who is:

- (a) Employed by an optometrist, or
  - (b) Employed by the medical provider or facility affiliated with the optometrist, in any setting where optometry is practiced, may perform any of the following activities under the direct responsibility of a licensed optometrist:
    - (a) Prepare a patient for examination,
    - (b) Collect preliminary data concerning a patient including taking the medical history of the patient,
    - (c) Perform simple noninvasive testing of the patient in preparation for any subjective refraction, testing, evaluation, interpretation, diagnosis or treatment of the patient by a licensed optometrist,
    - (d) For an ophthalmic purpose, administer a cycloplegic or mydriatic agent or topical anesthetic other than a controlled substance,
    - (e) Use an ophthalmic device, oversee ocular exercises, visual training, vision therapy or visual rehabilitation as directed by a licensed optometrist.
- The optometrist must conduct and perform the final examination of the patient in person.

**Mariah Smith:**

Assembly Bill 77 adds vision rehabilitation and vision therapy to the acts that constitute the practice of optometry. It clarifies that optometrists can perform and order imaging or lab work, and use devices to assist in diagnosis. In current statute, there are a few provisions that require the licensee to have taken the National Board of Examiners in Optometry's (NBEO) Treatment and Management of Ocular Disease (TMOD) examination after 1993. The NBEO has clarified that there were no substantial changes to the TMOD exam on this date, so the bill removes that date from the requirements but maintains that the licensee must pass the TMOD exam in the area where it is required.

The bill requires that complaints against a licensee be signed and verified, which will eliminate anonymous complaints. The bill also requires that all owner and employee optometrists register any fictitious names that they practice under with the Board. This will better enable the Board to follow up on complaints from the public.

There is no doubt that duplicating an expired spectacle prescription without evaluating the patient's current refractive status or eye health is an issue of public safety. Patients often erroneously believe that if their vision seems fine, they do not have any underlying health or eye issues. The patient often does not realize that their vision can deteriorate below the standards set by the Department of Motor Vehicles, which creates public safety concerns.

Testing a patient's vision is only one component of an eye exam, but it does not provide thorough information on the treatment of the patient. Many systemic conditions, such as diabetes, are asymptomatic in the earliest and most treatable stages. A comprehensive eye exam is an important part of preventative health care. It is generally agreed upon that preventative medicine improves the public's health and reduces overall health care costs. Many times, an optometrist is the only health care provider that a person might see in a year.

This is why A.B. 77 clarifies what we believe the current statute's original intention was—that the duplication of an expired prescription only occur in exigent or extraordinary circumstances. It is also important that this duplication be reported, should a problem arise that needs to be followed up on. Since this should not be happening frequently, the Board does not feel that reporting it would be a large burden. In today's world, most optical dispensaries are a stone's throw away from an optometry office, if not conjoined with one. Obtaining an eye exam should not impose a large burden on any member of the public; but more importantly, the desire to sell eyeglasses should never trump public welfare.

Lastly, to reiterate what Ms. Jenkins stated earlier, we are not proposing any changes to educational requirements in this bill or the amendment.

**Assemblywoman Neal:**

Page 3 of the amendment, or page 6, line 39 of the bill, states that an optometrist will now be able to remove eyelashes using forceps. Will this, in any way, overlap with the job duties of eyelash technicians, who are regulated by the State Board of Cosmetology?

**Mariah Smith:**

Optometrists have always been able to remove eyelashes with forceps. We defined the removal of eyelashes specifically with forceps because there are other ways to remove eyelashes, which would be something an ophthalmologist should do. Ophthalmologists can burn or freeze eyelashes, or remove the follicle, but an optometrist can only remove eyelashes with forceps.

**Assemblywoman Carlton:**

I do not think that the word "surgically" is appropriately used here. Surgery is invasive, and removing eyelashes with forceps is not invasive. I am concerned by that language.

**Mariah Smith:**

The codes used by insurance panels to define the procedures we do define it as a surgical procedure. However, in our proposed amendment, we have removed the word "surgically" from paragraph (j) to now read "removing eyelashes using forceps." We also removed altogether paragraph (k) of the bill regarding surgical removal of superficial lesions.

**Assemblywoman Neal:**

Section 16 of the bill revises NRS 636.110, and relates to how the money that comes into possession of the Board is deposited. Why do you need the authority to invest administrative fines and fees, that may belong to someone else, in United States Treasury bills or notes?

**Caren Jenkins:**

The Board is required to maintain 13 months of operating reserves. We currently have this money in two bank accounts, earning approximately 0.075 percent interest. We would not necessarily be investing the fines that are collected from violation fees, because we turn that money over to the State Treasurer immediately. We would invest money received from licensing fees and other fees that apply to our operations. This would allow us to invest this

money in longer term investments with higher interest rates during the period the money is held in reserve.

**Assemblywoman Neal:**

Both the amendment and the bill state that this is money that you have received from disciplinary action, which allows you to impose and collect an administrative fine or fee. If I am understanding this correctly, the money does come from disciplinary actions.

**Caren Jenkins:**

All funds that are received by the Board must be deposited, as NRS 636.110 mandates. All administrative penalties that are collected are deposited. Currently, they are deposited into our operating checking account, and immediately turned over to the State Treasurer. However, licensing fees, which contribute to the ability of the Board to operate, are deposited into a checking account or savings account. We would like to have the opportunity to invest the money in tools that can provide higher interest. Other boards have this ability as well, and I believe that the bill drafter borrowed language from another board's statute.

**Assemblyman Kramer:**

Not to focus on minutiae, but if you are going to invest in money market bills or Treasury notes, you should probably add "or money markets" to the language, and that you have liquidity.

**Chair Spiegel:**

Ms. Jenkins, can you provide us with a list of the other boards that have this capability?

**Caren Jenkins:**

I can certainly provide that.

**Assemblyman Daly:**

Section 18 of the bill states that "The Board may adopt policies, rules and regulations necessary to carry out the provisions of this chapter." From what I have seen, it is unusual to be allowed to adopt rules, let alone to adopt policies. Who is adopting the policies, and how do they get adopted? Who will receive notice of the policies, and can they be used for disciplinary action? This causes concern, because the visibility may be low. And if you already have rules, which is unusual, then you do not need policies as well.

**Caren Jenkins:**

It was recommended that "policies" be added to Assembly Bill 77 because the Board has long had its own policies. For example, it is a policy for a licensee to only contact the Board's office if there is an issue with a staff member, not for an inability to access the website to renew their license. For example, we have been able to provide guidance to our licensees on various matters, we have provided lists of approved continuing education providers, and have provided information after the passage of Assembly Bill 474 of the 79th Session. Policies are uniform, but are not enforced to the level of a regulation, and get published in our newsletter. I am not sure what a rule is. We have policies and

regulations set forth in *Nevada Administrative Code* (NAC), and statutes set forth in *Nevada Revised Statutes* (NRS).

**Assemblyman Daly:**

Section 20 seems to remove the fee schedule from statute, and allows the Board to revise the schedule at a later time, via policy or rule. I think the fee schedule needs to be established in regulation. I am not comfortable with it being removed, because in the future you would have the ability to make any drastic changes you want.

**Caren Jenkins:**

It is the Board's intention to establish the fees in regulation. However, we will need to make a wholesale change to our regulations after this bill. Perhaps this was not written as clearly as it could have been. Your direction to write this section in a more specific way is appreciated.

**Assemblyman Daly:**

My next question is in section 47, regarding anonymous complaints. Line 34 includes the word "verified." How are you going to verify that an anonymous complaint is legitimate? Perhaps you have the person submitting the complaint sign a statement that verifies it is true to the best of their knowledge, and impose consequences if the complaint turns out not to be legitimate.

In your proposed amendment [page 12 and page 13 ([Exhibit E](#))], regarding NRS 636.206 and NRS 636.207, you indicate that any staff member can issue an expedited license to an optometrist. Why is the Board president not doing this? I would want someone who is of a higher rank to do this.

**Caren Jenkins:**

First of all, it is very unlikely that the Board will meet for all expedited licensures. All licenses that are issued by the Board are signed by both the president and the executive director, as proposed in this measure. The current statute requires all four of the Board members to sign each license. We want to cut that back so that we can comply with our statutes. The president and the executive director shall sign each license and the staff can issue them, as long as the president signs it.

**Assemblyman Daly:**

But that is not what the bill says.

**Caren Jenkins:**

On page 13 of our amendment, NRS 636.207, subsection 4 states, "A license by endorsement to practice optometry may be issued to a qualified optometrist by the staff to the Board." Elsewhere in NRS Chapter 636, not in section 207, our issuance of certificate statute states that a license must be signed by the executive director and the president. We can add that a license may be issued "by the staff to the Board," bearing the signatures of the executive director and the president.

**Chair Spiegel:**

We can add this to the list of items that need to be clarified as we write an actual amendment in the form of the bill.

**Assemblywoman Jauregui:**

Section 3, subsection 3 of the bill passes some of the optometrist's duties to an assistant. What training do these assistants have? All it says in the bill is: "As used in this section, 'assistant' means a person employed to assist an optometrist . . ." If they are going to be administering cycloplegic or mydriatic agents, is there a training program that these assistants have to complete?

**Mariah Smith:**

There is no formal training program that an assistant has to complete, in the same way that assistants to medical doctors do not have a formal training program. There are programs available, but they are not required for a medical ophthalmology or optometry assistant.

**Assemblywoman Jauregui:**

Why are you requesting this change? Why are you giving some of your responsibilities to an assistant? How would it help you?

**Caren Jenkins:**

In my experience, it is very common for an assistant to see a patient before the optometrist. However, since it has been some time since our statute has been revised, that practice is not addressed, and may even be prohibited under the current law. This language would allow an optometrist to have an assistant, under the optometrist's license and liability, collect medical data, access patient health records, and prepare a patient for examination. Throughout the nation, these are the current practices, but they are not allowed in Nevada at this time. We would like the law to conform to the current practices of our optometrists. Additionally, another section of the statute dictates that an optometrist is responsible for the actions of any of their employees. An optometrist will not allow someone to act on their behalf without nominal or thorough training. I would imagine, since the optometrist is responsible for their assistant's work, that they will have that person trained well.

**Assemblywoman Jauregui:**

In section 21, subsection 2, you propose to completely remove a few sections of NRS. Why would you remove your right to take disciplinary action?

**Caren Jenkins:**

As those rights are written in statute, they require the Board to take very specific steps for disciplinary action. Without the steps specified in statute, the Board still has the ability to take those steps. Any actions that need to be taken against someone who is violating or thought to be violating the statute—the assessment of an administrative penalty, a cease and desist order, a subpoena—are outlined in another part of the statute.

**Assemblywoman Jauregui:**

In section 10, it seems like you are restricting opticians from duplicating an order. If I wanted to order a second pair of glasses, the optician would only be allowed to do that under "extraordinary or exigent circumstances." Why is that? Would I not be allowed to order a second pair of glasses without visiting an optometrist first? Would I be required to have another exam?

**Mariah Smith:**

The language does not restrict the creation of a second pair of glasses, it restricts the duplication of an expired prescription. If I bring a pair of glasses to an optician that are five years old, they can and have been remaking them, since it is a current "gray area" in the law. But that prescription is considered to be expired. A patient can have any number of pairs of glasses made with a valid prescription. The language addresses expired prescriptions.

**Assemblywoman Jauregui:**

Does this section provide the time frame for which a prescription is valid? How long is a prescription valid?

**Caren Jenkins:**

By law, eyeglass prescriptions expire two years after the issue date, unless a shorter time frame is given. Contact lens prescriptions typically expire after one year. This section restricts a dispensing optician from using a machine to read the current prescription from a pair of lenses and creating new lenses, referred to as neutralizing the prescription. Opticians may use this machine to duplicate lenses in exigent or extraordinary circumstances, such as if a long-distance truck driver ran them over. However, the copy becomes less accurate and less clear over time than the original.

Currently, contact lenses are regulated by the Federal Trade Commission. In order to dispense contact lenses, one must have a valid prescription that can be affirmed by the dispenser. If the prescriber fails to respond within eight hours, the prescription is automatically deemed valid. Why would we not have the same regulations on eyeglasses as we do contact lenses? Neutralizing a pair of glasses is similar to walking into a pharmacy with a pill and asking the pharmacist to refill the prescription. Without the original valid prescription, there is no way to know how long ago that pill was originally dispensed, and whether it is suitable for the patient. We are recommending that the neutralization and replacement of lenses be limited, unless there is a valid prescription or an extraordinary circumstance.

**Chair Spiegel:**

What would you consider to be an extraordinary or exigent circumstance?

**Mariah Smith:**

I can think of a number of different circumstances. If someone needed to have their prescription filled after normal business hours, or if someone has an expired prescription that



they needed to get refilled. I could continue to list specific scenarios, but I think we would have to define it in regulation.

**Chair Spiegel:**

For clarity, it would be very helpful for us to know what those scenarios are. How often do these extraordinary circumstances occur?

**Mariah Smith:**

It is hard to quantify because no one is keeping track right now. The occurrences are not recorded. Currently, the "gray area" in the law allows opticians to do this without record.

**Chair Spiegel:**

How then, do you know it needs to be changed?

**Mariah Smith:**

I have had patients who have told me they have had it done. I have patients with cataracts who do not meet the Department of Motor Vehicles' 20/40 vision standard, and who have had their prescription replicated without an eye exam. If I hear from several patients per month who have had their prescription remade without a valid prescription, then I imagine there are a lot more who may be too embarrassed to tell me about it.

To provide an example of a scenario that would be considered an extreme circumstance: a truck driver whose glasses break after hours and he needs to carry on with his route. He may not have a valid prescription, but he needs to be able to drive safely and continue to do his job. Most of the scenarios that I can think of are similar to this. However, the reality is that most optometrists are open at the same time as opticians. Sunday may be the only day with limited access to an eye exam and a valid prescription.

**Assemblyman Edwards:**

In regard to making copies of lenses, it occurs to me that there is probably a difference between copying a pair of reading glasses and copying a pair of prescription eyeglasses. I have found that it is very easy to switch between reading glass prescriptions without an eye exam. Would you make the distinction between copying reading glasses and copying other prescription glasses?

**Mariah Smith:**

Over-the-counter reading glasses are not something we consider to be a prescription. They can be included as part of a prescription for a patient, but they are not regulated by the Board of Optometry.

**Assemblywoman Carlton:**

To clarify, you are telling this Committee that you want to eliminate your statutory authority to take disciplinary action on licensees, and instead, rely fully on *Nevada Revised Statutes* (NRS) Chapter 233B, the Nevada Administrative Procedure Act. How can you operate without statutory authority?

**Caren Jenkins:**

I do not know. I do not understand the reasoning for this provision and I am not prepared to respond.

**Assemblywoman Carlton:**

Where did this provision come from?

**Caren Jenkins:**

This has been a very long and complex process, and I do not recall.

**Assemblywoman Carlton:**

I think we need to address this, because licensees need to know the rules, and everyone needs to be on the same page. If you need to discipline a licensee in order to protect the public, you cannot rely solely on NRS Chapter 233B; it is too ambiguous.

One of my larger concerns is in section 20 of the bill. I will be blunt—we do not allow boards to do this. Statutes are created by the Executive Branch and the Legislature, boards are allowed to develop their own *Nevada Administrative Codes*, and we jointly discuss how much money to charge licensees and how much to reserve. If you need to make adjustments, you may come back and speak with us. We cannot allow boards to have the authority to charge whatever they would like, especially for item 6 in subsection 2: "Any other service provided by the Board pursuant to this chapter." Your licensees pay a licensure fee to receive basic services from the Board and should not be charged for any other services. If we allow you to set your own fees, every board in the state will be asking for the same privilege, which is not in the best interest of the public and would put people out of work.

Lastly, why are you adding the word "consultants" to section 14, subsection 1, paragraph (b)? We have had issues with board consultants in the past, so I want to understand what issue is causing a need for a consultant.

**Caren Jenkins:**

The word "consultants" has been moved within paragraph (b). The statute previously read as "attorneys, investigators, and other professional consultants," as if to imply that attorneys and investigators are professional consultants. Attorneys and investigators are professional consultants for our Board, because we do not have staff. We utilize outside services for legal, bookkeeping, accounting, payroll, IT, and web services. The fees we pay to outside consultants are reported quarterly to the Legislative Counsel Bureau, and often include fees to attorneys and investigators, so we moved the word consultants from being modified by the word professional.

**Assemblywoman Carlton:**

In the past, when we have had boards switch to a two-year renewal period, as you are proposing in section 31 of the bill, the workload has become very cumbersome, because every licensee is renewing at the same time. It has caused issues in the past. If you revise your renewal period to two years, I hope that you will stagger the licensees enough so that

there is enough money flowing continuously, so that you are not collecting all the money at one time and then have no money coming in for two years.

I have the same concerns about investing your operating reserve. Boards are not an opportunity to make money. An operating fund and a reserve are there in case a problem arises. You would be unable to unexpectedly pay for a legal consultant if your money is tied up in investments. In the past, we have found that investments are not a wise use of a board's money, especially its operating reserve. If you have enough money in your operating reserve to invest, perhaps we need to discuss the possibility of issuing refunds to licensees.

I am really looking forward to seeing a mock-up of this bill so I can understand all of the changes that have been proposed today.

**Chair Spiegel:**

It has been brought to my attention by legislative staff that there are no provisions in NRS that require a specific number of months of operating reserves. Please report back to us the NRS provision that dictates your operating reserves. Similarly, I understand that when a board indicates how their money will be deposited, NRS typically dictates that the money be deposited only in banks located in the state of Nevada. Lastly, I understand that when the Sunset Subcommittee of the Legislative Commission reviewed the Optometry Board in the 2015-2016 Interim, you had 28.8 months of operating reserves. Is that still the case? Why are your operating reserves so high?

**Caren Jenkins:**

In April 2016, the Executive Director of the Board, who had been with the Board for 19 years, passed away suddenly. At that time, the Board did not use computers, had no electronic files, no website, and was not a customer service- or licensee-oriented organization. I was hired in July 2016, and immediately began working to make the Optometry Board an entity that better serves the public. We now have a robust website with online licensing and resources. We have added a half-time staff member, and are a fully operating board. We have drastically changed the public opinion of the Board. Our current reserve holds about 18 months of operating expenses. It is a much more functional Board than it used to be, but it is also a more expensive Board to operate. It was a large investment to convert our files to an electronic form, create an online licensure verification system, and make disciplinary information available online. Our reserves were somewhat depleted. We had been operating with a negative reserve, although not significant, and we are not stockpiling money as one might assume. Our expenses have also increased. It is not likely that we will have 28 months of operating reserves now, or any time soon.

**Chair Spiegel:**

Thank you. We will now hear testimony from those in support.

**Jonathan D. Mather, Legislative Committee Chair, Nevada Optometric Association:**

We are in support of this bill. Ms. Jenkins and Ms. Smith have made excellent points in that our statutes need to be modernized, because they have not been updated for a long time.

I work at a large multidocor, multipractice office. We have over 16 doctors in 7 locations throughout the Carson, Minden, and Reno areas. We have difficulty attracting new talent, newly graduated doctors, and exceptional doctors from other states. We especially had this issue in the past before Ms. Jenkins came on board and digitized everything. The inefficiencies of the Board have made Nevada seem subpar in comparison to other states. The changes that the Optometry Board is proposing are all in the interest of protecting the public, and will make it easier to recruit new optometrists. The proposed changes elevate Nevada's reputation among the other states in the nation, which will hopefully increase the ability for patients to receive optometrist care from talented, high-quality doctors, as they deserve. These are the reasons that I am in support of this bill and the proposed amendment.

[([Exhibit G](#)), ([Exhibit H](#)), and ([Exhibit I](#))] were submitted, but not discussed, and will become part of the record.]

**Michael D. Hillerby, representing Nevada Optometric Association:**

We will be happy to work with the group assigned to work on this bill, as well as with Ms. Jenkins and the Board, to ensure that the amendment is clear and easy for the Committee to understand in a future hearing.

**Mark Lee, President, Nevada Optometric Association:**

I will not repeat the testimony of others before me, but I think there are some important aspects of this bill. The bill introduces mobile optometry to ensure rural and underserved populations receive care. It also modernizes our practice statutes, which has not been done in nearly 65 years. Some of the provisions were written in 1955. If you walk into any modern optometrist's office, you will find technology that would not have been recognized 20 years ago, let alone 65 years ago. I think that the modernization will help bring the profession into the twenty-first century. The bill also modernizes our prescribing authority, to ensure that we can prescribe safer alternatives to drugs like hydrocodone. Under current statute, we can prescribe hydrocodone, but we cannot prescribe, for example, 800 milligrams of ibuprofen. The Nevada Optometric Association endorses this bill, with its proposed amendment, and asks for your support.

**Jeffrey K. Austin, Board Member, Nevada State Board of Optometry:**

I want to thank the Committee for hearing this bill today. We look forward to working with the group to iron out the details and make this bill more clear and effective. I would also like to thank the Nevada Academy of Ophthalmology for working so diligently and collaboratively with us on this bill. Specifically, I would like to thank Dr. Adam Rovit, the President of the Nevada Academy of Ophthalmology, for working tirelessly on this bill. I support this bill, and ask that we move forward as quickly as possible to have it written in a form that can be passed.

**Helga F. Pizio, Ophthalmologist, Comprehensive Eye Care Partners, Las Vegas, Nevada:**

I am fully in support of [A.B. 77](#), because I think it does a lot to correct the issues of previous optometry bills and to solidify the relationship between ophthalmologists and optometrists.

Specifically, I would like to speak about the duplication of eyeglasses without a valid prescription. This section of the bill is very important. As ophthalmologists and optometrists, we see a lot of patients with diabetes, cataracts, and other issues. If a patient does not have a valid prescription, they are oftentimes receiving a duplicate prescription, and not receiving the proper care that they need. I am in support of this bill.

**Michael Roth, Optometrist, Advanced Vision Institute, Las Vegas, Nevada:**

Our profession is one that cares for all people. When I lived in New York, I was certified as a therapeutic optometrist and was qualified to treat glaucoma. I treated glaucoma patients in New York for ten years. When we moved to California, for another ten years I worked for a large practice and saw hundreds of glaucoma patients. Recently, we decided to move to Nevada, which was a very difficult decision to make. I am certified to treat all eye diseases, including episcleritis and conjunctivitis, and it was very difficult to think that I would have to give up my ability to treat glaucoma patients. I endorse this bill, and support glaucoma certifications by endorsement. I think it is necessary, and it is what all other states do.

**Adam J. Rovit, President, Nevada Academy of Ophthalmology:**

I am speaking in support of A.B. 77 and its amendment. This bill is comprehensive, it discusses the Board of Optometry, its organization and function, the licensure of optometrists, the practice of optometry, and certification. As ophthalmologists, our overwhelming concern is a patient's safety. In working with the Nevada State Board of Optometry, specifically with Mariah Smith and Jeff Austin, we feel that we have ironed out the provisions, and feel that optometrists will be able to work under them to treat infection, glaucoma, and other eye diseases in a safe, comprehensive manner. Additionally, we support the specific stipulations that leave surgery of the eye and its surrounding structures in the hands of a doctor of medicine (M.D.) or a doctor of osteopathic medicine (D.O.)—individuals who have attended medical school and completed the additional residency training for those procedures. We look forward to working with our colleagues in a collegial and comprehensive manner, and we support Assembly Bill 77 and its amendment.

[([Exhibit J](#)) was submitted, but not discussed, and will become part of the record.]

**Mark Stradling, Ophthalmologist, Nevada Eye Physicians, Las Vegas, Nevada:**

Prior to becoming a physician, I worked as a dispensing optician in the state of Arizona. Having worked in that field, I saw many people come in without a prescription and have eyeglasses made without a regular eye exam. I am in support of A.B. 77 because making a pair of glasses without a current prescription is akin to filling a prescription for medicine without verifying the patient's need for the medication, the correct dosage, or the patient's diagnosis. Our purpose is to protect the public, and that is what the Optometry Board is trying to do in A.B. 77. I am in support of this bill.

**Timothy Moore, Optometrist, Epic Vision Development, Reno, Nevada:**

I moved to Nevada in 2014, which was a very difficult decision, due to some of the licensing regulations in this state, specifically the glaucoma regulations. Given that I had undergone extensive training to treat and manage glaucoma, practicing in a state in which I am limited

in doing that without working with an ophthalmologist was difficult. I support the added language which allows for glaucoma certification by endorsement. I also work in pediatrics and vision therapy. I like that we have defined vision therapy in the law, and added it to our scope of practice. I also support the defining of the duties that our technicians and assistants can perform in the office, which will help me be more efficient in my practice, specifically in relation to more time-intensive duties. It is more difficult to see a 4-year-old than a 40-year-old. Having my assistants perform some tests prior to the patient's exam will make a very big impact on my practice and my ability to see more children. I am in support of this bill.

**Chair Spiegel:**

Thank you. We will now hear testimony from those in opposition.

**Mark M. Myers Jr., Acting Secretary, Board of Dispensing Opticians:**

I do not want to discredit the Board of Optometry working with us, but as it stands, I would like to voice opposition to the bill due to its impact on the ability for licensed opticians to fulfill their role as outlined in NRS Chapter 637 and NAC Chapter 637 and their ability to serve the public. Although the legislative process can make it difficult to keep all parties in the loop, I believe the language in the bill as presented today is different from previous versions that were presented to our Board. I would like to ask for the time to address the impact that the new wording will have.

**K. Neena Laxalt, representing Board of Dispensing Opticians:**

We will be addressing section 10 of the bill specifically. We have also provided the Committee with a letter of opposition ([Exhibit K](#)) that is available on NELIS.

**Corinne Sedran, Executive Director, Board of Dispensing Opticians:**

As we have indicated in the letter ([Exhibit K](#)) that was sent to the Committee members, we are opposed to section 10 of this bill. We believe it is in direct conflict with NRS 637.022, which includes in the definition of ophthalmic dispensing: "The adjustment, replacement, repair and reproduction of previously prepared ophthalmic lenses." At this time, our statute does not outline any restrictions on the reproduction of lenses as this bill currently proposes. We are not necessarily fully opposed to certain restrictions on the neutralization of lenses to ensure that copies of copies are not being produced. However, we think that this is something that should be adjusted in our statute, and that this blurs the lines of jurisdiction. We have not received any formal complaints, nor do we think the Optometry Board has received any formal complaints pertaining to the neutralization of lenses.

In response to the Optometry Board's statement that selling eyeglasses should not trump public policy: We believe there are several valid reasons for reproducing lenses, specifically with regard to honoring the warranty that many retailers offer on lenses. When the retailer issues a pair of glasses, the prescription is often already several months old. If the consumer brings the pair of lenses back to the retailer in the event of a problem with the lenses, the retailer has the option to reproduce the pair of lenses rather than sending the customer back to the optometrist. Lastly, in response to the Optometry Board's statement that retailers and

optometrists are often in the same location: that is true. However, we would argue that it often takes two or three months to get an appointment with an optometrist, unlike what they have implied.

**Tamara Sternod, Board Member, Board of Dispensing Opticians:**

I have been an optician since 1996. I am opposed to section 10 of the bill, which takes away our ability to duplicate glasses. Many times I receive old prescriptions from patients who have seen an ophthalmologist recently. The doctor has verified the health of their eyes, and confirmed that their prescription has not changed. If the ophthalmologist gives permission to use an old prescription, we would duplicate an old pair of eyeglasses. Many times an ophthalmologist will have their assistant check the patient's health and sign off on it. People will still be able to take their expired prescription online to purchase glasses. No one is verifying the validity of a patient's prescription online. Dispensing opticians are regulated when duplicating a pair of glasses. If something goes wrong, the public has an outlet to complain. I do not know how the Board of Optometry will be able to regulate the online services to ensure that no expired prescriptions are accepted.

**K. Neena Laxalt:**

The draft of this bill was sent to the Board of Dispensing Opticians in late December 2018, and was presented in January 2019. The amendment was received last Thursday. The Board of Dispensing Opticians has been in negotiations with the Board of Optometry because the proposed amendment is quite different from the original bill draft that they agreed to. The bill and the amendment incorporate a lot of changes that impact many different areas. The Board of Dispensing Opticians is willing to work with the Board of Optometry, but there has not been enough time to discuss such a large bill.

**Liz MacMenamin, Vice President of Government Affairs, Retail Association of Nevada:**

I am here today in opposition of this bill. Specifically we feel that section 10 encroaches on the licensed dispensing opticians in our state. I have always been an advocate for ensuring Nevadans have an opportunity to receive health care, however necessary, in a safe way. I just recently had the opportunity to look at the bill and its amendment, and will be sending it to my members. I will be glad to work with the sponsors to come up with a bill that we can support.

**Catherine M. O'Mara, Executive Director, Nevada State Medical Association:**

We feel that this bill needs work, but are in support of the amendment that was put forth. We are happy to work with the sponsors on some of the technical aspects of the bill. However, we are still trying to understand some of the provisions that do not seem to impact us.

**Chair Spiegel:**

Does anyone wish to testify in the neutral position? [There was no one.] I would like the Optometry Board to work with Assemblywoman Jauregui and legislative staff on a mock-up of the bill. It will incorporate the amendment and will be circulated to various stakeholders. At a future date, we will hold another hearing to discuss the specifics of the bill.

We will close the hearing on Assembly Bill 77. Is there any public comment, either in Carson City or in Las Vegas? [There was none.]

The meeting is adjourned [at 3:26 p.m.].

RESPECTFULLY SUBMITTED:

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Katelyn Malone  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen B. Spiegel, Chair

DATE: \_\_\_\_\_



## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a document titled "Presentation Regarding Certain Differences Between Dispensing Opticians, Optometrists and Ophthalmologists," dated February 25, 2019, presented by Wil Keane, Committee Counsel, Legal Division, Legislative Counsel Bureau.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Optometry in Nevada: 1913 to 2019," presented by Caren C. Jenkins, Executive Director, Nevada State Board of Optometry.

[Exhibit E](#) is a proposed amendment to [Assembly Bill 77](#) submitted by Caren C. Jenkins, Executive Director, Nevada State Board of Optometry.

[Exhibit F](#) is a proposed amendment to [Assembly Bill 77](#) submitted by Caren C. Jenkins, Executive Director, Nevada State Board of Optometry.

[Exhibit G](#) is a handout titled "Doctors of Optometry are America's Primary Eye Care Providers," submitted by Jonathan D. Mather, Legislative Committee Chair, Nevada Optometric Association.

[Exhibit H](#) is an untitled handout, submitted by Jonathan D. Mather, Legislative Committee Chair, Nevada Optometric Association.

[Exhibit I](#) is a handout titled "Nevada Access to Eye Care," dated July 25, 2018, prepared by the American Optometric Association Research & Information Center (RIC) and Health Policy Institute (HPI), submitted by Jonathan D. Mather, Legislative Committee Chair, Nevada Optometric Association.

[Exhibit J](#) is a letter dated February 20, 2019, to Chair Spiegel and members of the Assembly Committee on Commerce and Labor, authored by Adam J. Rovit, President, Nevada Academy of Ophthalmology, in support of [Assembly Bill 77](#).

[Exhibit K](#) is a letter dated February 22, 2019, to members of the Assembly Committee on Commerce and Labor, authored by Jennifer Benavides, President, Board of Dispensing Opticians; Mark Myers, Secretary, Board of Dispensing Opticians; Marilyn Brainard, Treasurer, Board of Dispensing Opticians; and Tamara Sternod, Board Member, Board of Dispensing Opticians, and presented by Corinne Sedran, Executive Director, Board of Dispensing Opticians, in opposition to [Assembly Bill 77](#).