

# NEVADA STATE BOARD OF OPTOMETRY

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## SMALL BUSINESS IMPACT STATEMENT REGARDING A REGULATION PROPOSED BY THE NEVADA STATE BOARD OF OPTOMETRY (LCB No. R045-15)

Pursuant to NRS 233B.0608(1), the Nevada State Board of Optometry is required to make a determination whether its proposed regulations, known as LCB #R045-15, will: (a) impose a direct and significant economic burden upon small business, and (b) directly restrict the formation, operation, or expansion of small business. NRS 233B.0382 defines a small business to be any business that employs 150 or fewer employees. All of Nevada's optometric practices would be considered small businesses.

Pursuant to NRS 233B.0609, the Board provides the following information:

**(1) A Description of the Manner in Which Comment Was Solicited from Affected Small Businesses, a Summary of Their Responses, and an Explanation of the Manner in Which Other Interested Persons May Obtain a Copy of the Summary.** – On January 13<sup>th</sup> and May 12<sup>th</sup>, 2015, the Board discussed the potential text for the regulation at its regular board meetings. Attending and participating in the discussion were representatives from the Nevada Optometric Association and the Nevada Academy of Ophthalmology. Based upon the discussion, the Board made some changes to the proposed language. No participant in the discussion presented any evidence or argument that the proposed language would have a positive or negative impact on small businesses.

On July 14<sup>th</sup>, 2015, the Board held a workshop regarding the language that became R045-15. Attending and participating in the workshop were representatives from the Nevada Optometric Association and the Nevada Academy of Ophthalmology. No participant in the discussion presented any evidence or argument that the proposed language would have a positive or negative impact on small businesses.

On January 26, 2016, the Board held a regulation hearing regarding R045-15. Attending and participating in the workshop were representatives from the Nevada Optometric Association and the Nevada Academy of Ophthalmology. Testimony was received from the lobbyist for each association and from individual optometrists in attendance. While discussion regarding the specifics of the language of R045-15 occurred, no participant in the discussion presented any evidence or argument that the proposed language would have a positive or negative impact on small businesses. The substantive discussion regarding the language of the proposed regulation related to whether the proposed regulation, as drafted, could be satisfied by a single examination. It was determined that the proposed language could be satisfied with a single examination,

and concerns were expressed that a single examination would not be meet ophthalmological standard of care for the treatment and following of glaucoma patients. Therefore, the Board determined to return to language similar to the language it had originally presented to LCB, which the Board understood to disallow a single examination to be sufficient.

Subsequent to the January 26, 2016, the regulation had been scheduled to be heard by the Legislative Commission, and then was rescheduled to be heard by the Committee on Healthcare. The hearing before the Committee on Healthcare was postponed for further discussion of the regulation. A subsequent meeting occurred at which lobbyists for the Nevada Optometric Association and the Nevada Academy of Ophthalmology and the Board's President attended, and slightly amended language was worked out.

On June 16, 2016, the Board adopted the amended language reached by the various parties. Throughout the discussion that resulted in the successful amended language, no mention was made by any of the parties about an adverse financial impact that the regulation might have on small businesses. Rather, the amendments to the language addressed specifics of how many visits would be necessary over a particular period of time.

**(2) The Manner in Which the Analysis Was Conducted.** – The Board discussed the proposed language at its regular meetings on January 13<sup>th</sup> and May 12<sup>th</sup>, 2015, at its workshop on July 14, 2015, at its hearing on January 26, 2016, and at its meeting on June 16, 2016 and received input from representatives of the Nevada Optometric Association and the Nevada Academy of Ophthalmology. The Board made changes to the proposed language based upon the input received, none of which had a significant impact on small businesses. The Board received one written comment from a licensee who did not appear at any of the meetings and the Board reviewed and considered the written comment at its hearing on January 26, 2016.

**(3) The Estimated Economic Effect of the Proposed Regulation on the Small Businesses Which It Is to Regulate, Including, Without Limitation, Both the Adverse and Beneficial Effects and Both Direct and Indirect Effects.** – Based upon the lack of input received from effected licensees or others, the proposed regulation is not estimated to have an adverse or beneficial economic effects on Nevada's optometric practices or to have any detrimental direct or indirect effects.

**(4) A Description of the Methods That the Agency Considered to Reduce the Impact of the Proposed Regulation on Small Businesses and a Statement Regarding Whether the Agency Actually Used Any of Those Methods.** – The Board changed the language of the proposed language after it received input from the Nevada Optometric Association and the Nevada Academy of Ophthalmology.

**(5) The Estimated Cost to the Agency for Enforcement of the Proposed Regulation.** – The Board determined that there will be no additional cost to it as a result of the proposed regulations.

**(6) If the Proposed Regulation Provides a New Fee or Increases an Existing Fee, the Total Annual Amount the Agency Expects to Collect and the Manner in Which the Money Will Be Used.** – The proposed regulation does not propose a new fee and does not increase an existing fee.

**(7) If the Proposed Regulation Includes Provisions Which Duplicate or Are More Stringent Than Federal, State or Local Standards Regulating the Same Activity, an Explanation of Why Such Duplicative or More Stringent Provisions Are Necessary.** – The proposed regulation change does not duplicate and is not more stringent than any federal, state, or local standards regulating optometry.

**(8) The Reasons For the Conclusions of the Agency Regarding the Impact of a Regulation on Small Businesses.** – The Board is confident that its proposed regulation will not have an impact on small businesses, namely on Nevada’s optometric practices, because the Board has not received any input from any of the licensees and interested people who received notice of the proposed regulations. When the Board received input from the Nevada Optometric Association and the Nevada Academy of Ophthalmology, the Board addressed the concerns by changing the language. As far as the Board knows, neither the Nevada Optometric Association nor the Nevada Academy of Ophthalmology have concerns with the proposed regulation now that its earlier voiced concerns have been addressed.

Based upon receiving no comments regarding the impact of the proposed language from any of the people notified, and based upon successful addressing of the comments received at the discussion of the proposed language at its four meetings at which the regulations were discussed, the Board determines the following to be the answers to the concerns raised in NRS 233B.0607(1):

**(1) Does the Proposed Regulation Impose a Direct and Significant Economic Burden Upon Small Businesses?** – The Board has determined that the proposed language will have no direct or significant economic burden upon small businesses, namely optometric practices, because the Board has received no comments that would indicate any such impact.

**(2) Will the Proposed Regulation Directly Restrict the Formation, Operation or Expansion of a Small Business?** - The Board has determined that the proposed language will not restrict the formation, operation, or expansion of small businesses, namely optometric practices, because the Board has received no comments that would indicate any such impact. Rather, the Board believes that the regulation will increase the opportunities for practitioners to become glaucoma certified, which should have a beneficial effect on small businesses and the patient served by them.

Pursuant to NRS 233B.0608(3) and 233B.0309(2), I hereby certify that to the best of my knowledge or belief, the Board conducted a concerted effort as described above to determine the impact of the proposed regulation on small businesses, namely on

optometric practices in Nevada, and that the information contained in this statement was prepared properly and contains accurate information regarding all such efforts and the Board's determination based thereon.

Signed and effective this 17<sup>th</sup> day of June, 2016.



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Louis Ling, Board Counsel  
Nevada State Board of Optometry