

These minutes have not been approved by the Board

MINUTES OF THE MEETING

Board of Optometry
September 24, 2026

1. ROLL CALL

The meeting of the Board of Optometry was called to order by Creston Myers, Chair, at 8:05 a.m. in the Bronze 4 Conference Room, Younes Conference Center North, 707 Talmadge St, Kearney, NE 68845. In accordance with §84-1411 of the Nebraska Open Meetings Act, copies of the agenda were 1) emailed to the Board members and other interested parties, 2) posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and 3) posted on the bulletin board in the Nebraska State Office Building Lobby on September 22, 2026.

The following members answered roll call:

Members Present:

Jeremy Baumfalk, Secretary
Creston Myers, Chair
Scott Stocking
Christopher Wolfe, Vice Chair

Staff and Others Present:

Maiya Baumann, Program Manager, Licensure Unit
Jessica Dean, Health Licensing Coordinator, Licensure Unit
T.J. O'Neill, Assistant Attorney General (via Microsoft Teams)
Tyler Walvoord, DHHS Legal
Ellie Rohr, DHHS Legal (via Microsoft Teams)
Janet Seelhoff, Executive Director, Nebraska Optometric Association

A quorum was present, and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Stocking moved, seconded by Wolfe, to adopt the agenda for the meeting. Voting yes: Baumfalk, Myers, Stocking, and Wolfe. Motion carried.

3. APPROVAL OF MINUTES – APRIL 17, 2026

MOTION: Wolfe moved, seconded by Baumfalk, to approve the minutes of the meeting on April 17, 2026. Voting yes: Baumfalk, Myers, Stocking, and Wolfe. Motion carried.

4. UPDATES

a. Regulations

Baumann mentioned that with the passage of LB 660 in 2025, all regulations will be up for review every five (5) years. Walvoord explained that the schedule for when each chapter will be opened for review is not known ahead of time, and that if legislation were to be passed that would require updates to regulations, they would be opened for that purpose separate from the normal five-year review. If board members feel that changes are needed, they can inform the Department and those recommendations will be noted for the next time that a review takes place. Stocking asked if there were any artificial intelligence (AI) issues that the board needs to regulate. The other members said that there weren't any current issues which need to be regulated, as the most common use of AI right now is for charting. Dr. Wolfe said that the only AI issue that might affect licensure, specifically in terms of complaints, would be kiosk technology, which is FDA approved and can utilize AI for clinical decisions related to some services, including retinal scans for diseases such as diabetic retinopathy. He said that this service can be useful for diagnosing issues in clients who refuse to see a doctor. However, as an example, a scan conducted on a diabetic patient by AI might diagnose certain conditions incorrectly. A patient who is using a kiosk for their eye exam might assume that they are receiving a complete exam when they are not. He said that kiosks are governed by a state statute, the Consumer Protection in Eye Care Act (Neb. Rev. Stat. §69-308 to §69-314), but it is likely that there will be an increase in the frequency of complaints related to kiosks, as owners may not be aware of the requirements in statute, or may choose to disregard them. He was not sure if the statute as originally written specified that the provider who is reviewing patient information taken at a kiosk must be licensed in Nebraska or if that requirement was added later (reference: Neb. Rev. Stat. §69-309.)

b. Association Updates

i. National Board of Examiners in Optometry (NBEO) <https://optometry.org/>

Baumann said that the new website for NBEO has gone live and that with the update, it is much easier for applicants to request that scores be sent and for DHHS to receive the scores. All applicants who have taken the required examination sections for Nebraska licensure will have their scores sent automatically without having to request them.

ii. Association of Regulatory Boards of Optometry (ARBO) <https://www.arbo.org/>

Baumann said that there is a new board liaison for ARBO, Dr. Glenn Kawaguchi. Dr. Kawaguchi will be added to the list of stakeholders who receive copies of meeting agendas. Stocking asked where the annual meetings are held, and Myers said that the location changes every year; the next annual meeting will be held in Boston. Annual meetings typically occur in June.

iii. Nebraska Optometric Association (NOA) <https://nebraska.aoa.org/>

Janet Seelhoff, Executive Director of NOA, had a number of agenda items to discuss. She asked why there had been no response from DHHS about continuing education (CE) credit approval for the technology demonstrations scheduled for the first day of the NOA EyeCon26 conference, which occurred on the date of this meeting and was the reason that the board meeting was held in Kearney rather than the usual meeting location of the Nebraska State Office Building in Lincoln. She said that the lecture portion of the demonstrations had been approved for CE credit by the Council on Optometric Practitioner Education (COPE), but not the demonstrations themselves. Walvoord said that per the regulations (Title 172 NAC Chapter 120), continuing education must be approved by the board rather than by DHHS staff. Baumann said that since the Behavioral Health licensing team only recently took over the Optometry profession, she has been working on becoming familiar with the requirements for CE approval, which are different than the requirements for the other professions currently covered by the team. Wolfe asked if the demonstrations could be approved during the meeting since the board was present. Walvoord explained that since it was not on the agenda, the board could not vote to approve the CE at the meeting. Wolfe said it was concerning that the request for approval had been submitted prior to the meeting but was not placed on the agenda. Baumann said that while the request had been received, it had not been reviewed and she apologized for the oversight. Wolfe asked how this type of oversight could be avoided in the future and Baumann recommended that if a request had been submitted by email with no response received, the next best step would be to contact her directly by phone. Myers asked how it would be possible for the board to approve CE credits when they typically only meet twice a year; Walvoord responded that the board could vote via email ballot. Wolfe asked how an email ballot would be different than the board voting in person at a meeting without the vote having been placed on the agenda. Rohr explained that an email ballot, after it occurred, would be placed on the agenda for the next meeting and read into the minutes; the public would then have the opportunity to comment on the vote during that meeting. She said that the problem with a board vote occurring without first being placed on the agenda is that the public would not be aware of the vote and would not have an opportunity to comment. Public notice requirements in statute dictate that an item be placed on the agenda in order for discussion on that item to occur at a meeting. Baumfalk asked what the process was for requesting an agenda item, and Baumann said that the request should be sent to Dean for placement on the agenda. Seelhoff asked about CE approval for the upcoming NOA spring conference and when the board is scheduled to meet next. Baumann said that the next meeting date had not yet been determined, but that CE approval could be conducted by email ballot. Seelhoff said that it would have been helpful to know about the process prior to submitting the request for CE approval in July, and that in past years, they had submitted the request to DHHS and Licensure staff had approved their requests. Baumann said that she is new to the program manager role and she has

been relying on input from DHHS Legal staff to make sure that DHHS is complying with current regulations when it comes to CE approval. Seelhoff asked what they could tell the conference participants about CE approval for the technology demonstrations and Baumann said that Licensure staff would try to distribute an email ballot to the board within a day. Seelhoff asked about an optometrist who had recently contacted the Department about CE approval for presenting at a different conference, and they were provided a form to fill out and return for review. She asked if licensees would have to follow this process whenever they were requesting CE approval for this type of situation. Walvoord said that if the CE request did not fit into one of the types of CE credit that was not specifically listed in the regulations as acceptable, then yes, they would have to submit it to the Department, but that the approval process could be conducted by email ballot as well. Stocking said that in the past he has worked with other professions which allowed CE credit for courses approved by a national board, and if the process for Optometry CE approval was different. Myers said that COPE is the national board for Optometry CE approval and that their requirements for approval have changed over the years. He said that in the past, it was assumed that any presentations at a state meeting would be accepted for CE credit. Baumann asked if those past presentations had been voted on by the board, and Myers said that they had not; they were approved by the Department. Baumann said that this type of past practice is the reason why she has made a point to consult with DHHS Legal staff to be sure that the Department is complying with regulation on CE approval. Myers said that COPE has also become more strict with approvals than they were in the past. Wolfe mentioned that there was a cost for CE approval by COPE and that could also make the CE approval process more difficult. Stocking asked if CE credits that had not approved by COPE would count toward national certifications. Wolfe said that it would, but only because NOA would make sure that their CE offering met the more rigorous standards for national board certification to ensure approval. Baumfalk asked if the training required to maintain DEA controlled substances registration would be approved for CE credit. Myers said that he thought that when the rules changed to require DEA registration, the board had voted to approve CE credit for courses accepted by the DEA, but he was unable to find minutes from that time online. Baumann said that she could review older minutes to find that record. Seelhoff said that an NOA member had asked her that specific question and questioned whether she could tell them that the credit would be approved; Walvoord said that he was not sure that it could and that DHHS could get back to her on that issue. Seelhoff said that the Nebraska Foundation for Children's Vision, which works to ensure that underinsured and uninsured children in Nebraska are able to obtain comprehensive annual eye exams. She said that as part of this effort, optometrist members offer eye clinics in school settings or work to provide services to these children in their private practices. She said that the state of Ohio has approved CE credits for their providers who offer a similar service and asked if the board would consider approving CE credits for Nebraska optometrists who work with the Foundation to offer these services. She said that she could provide information on Ohio's statutes and regs to DHHS.

Walvoord said that might require a change in regulations and that he would need to review the issue. Seelhoff said that her final agenda item was a report that had been submitted to NOA regarding “eye bots” that have been providing services at various Sam’s Club locations and that they would be submitting a letter to DHHS regarding this issue. Baumfalk said that members of the profession had recently contacted himself and the other two optometrist board members with questions about CE approval, and that some of these questions were included in an email that had been sent to all three board members. He asked what the board members should do in that situation. Walvoord said that in any situation where three board members are included in a communication, that would be considered a quorum of the board and would be covered by the Open Meetings Act. Walvoord said that if a quorum of board members is copied on an email, they should avoid replying or answering any questions, because they have not been approved to speak on behalf of the board. The appropriate response would be to request that the person contact DHHS staff to obtain an answer to their question. He said that as a reminder, no board member should speak on behalf of the board unless a vote has occurred and a motion has been passed allowing them to do so. Baumfalk asked if board members’ email addresses were available to the public and Walvoord replied that there was a list of board members online which includes email addresses. Baumfalk asked why board member email addresses were available to the public if board members are not allowed to speak on behalf of the board. Baumann said that board members could request that email addresses be removed from the public board member list; that request would have to be forwarded to a different staff member within DHHS for processing. Dean said that members of other boards use a personal email address rather than a work email, and that board members can also provide an email account specifically for listing on the public board member list and use a separate email for private communication with DHHS staff.

c. Licensure statistics (attached to agenda)

Myers asked how many licenses had been issued in 2026; Baumann said that Licensure Unit staff could generate a report to collect that information. She said that the statistics compiled for the April meeting agenda showed a total of 515 active licensees; the statistics compiled for the current meeting showed a total of 479 active licensees. Dean said that when the agenda for the first meeting of each year is generated, examination statistics for the entire previous year are included. For each subsequent meeting, examination statistics for the period since the last meeting are included. The summary count of licensees, the report which includes the count of each type of license status (total number of active licenses, total number of expired licenses, etc.), always reflects the count on the day the report is run. Myers noted that the count of active licensees had gone down since the last meeting. Baumann said that since renewal had occurred since the last meeting, there were likely a number of licensees who chose to retire or otherwise discontinue practicing at that time. Myers noted that there is a decrease in the number of licensed optometrists each year due to retirement and that is an ongoing issue for the profession in terms of standard of care. Seelhoff said that at a recent national board meeting, it was noted that the coming year

will include the highest number of retiring optometrists to date. She said that she has traveled to practices where there are no current NOA members in Omaha, Lincoln, Kearney and Fremont, and that she knew of around 85 licensees who are not actively practicing in Nebraska; there are others who are licensed in Nebraska in order to provide telehealth services. There are currently around 250 actively practicing optometrists in Nebraska who are also NOA members and around 110 more who are not members of NOA. She said that the number of optometrists with an active Nebraska license is higher than the number of optometrists who physically practice in the state. Baumann said that if members or stakeholders want to see additional license statistics that are not included with each agenda, they can reach out to the Department to request that information. Baumfalk asked about CE statistics and the process of CE audits. It was explained that CE audits typically occur after renewal and that a certain percentage of licensees are selected randomly for the CE audit process. Myers said that ARBO has recently becoming more comprehensive in tracking CE statistics. Wolfe asked if the Department has access to the OE tracker through ARBO and Baumann said that they do not. Baumfalk said that the percentage of licensees who are audited seems inadequate and asked how that was determined. Dean said that she wasn't sure if the requirement for the percentage of licensees who are audited was in regulation or was part of the UCA, but the number chosen for audit is regulated. Baumfalk asked if CE audit results are available to the public and Dean said that they are not published, but DHHS is required to save and store all CE audit records according to regulation. The CE audit process is conducted internally by the Department and is not made public; each licensee selected for audit is contacted by the Department to provide their proof of CE, and if DHHS has any questions, they follow up with the licensee. Baumfalk asked what happens when a licensee fails a CE audit and Dean explained that typically their license status is changed to expired and the licensee is provided an opportunity to make up the hours, usually within 30 days. Typically, the licensee will make up the hours in order to restore their license to active status and disciplinary action is not required.

5. ADJOURNMENT

The meeting was adjourned at approximately 8:57 a.m.

Summarized by:
Jessica Dean, Licensure Unit