



STATE OF NEVADA

BOARD OF DISPENSING OPTICIANS

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INFORMATIONAL STATEMENT FOR REGULATION PROPOSED BY THE NEVADA STATE BOARD OF DISPENSING OPTICIANS (LCB No. R137-17)

The following statement is submitted for the proposed amendment and additions to NAC chapter 637.

1. A clear and concise explanation of the need for the adopted regulation.

The need of the proposed regulation is multifaceted and includes the following: 1) Existing regulations allow apprentices to have managerial authority over their supervisors, which has created conflicts of interest culminating in disciplinary action; the new regulation is necessary to prevent such conflicts; 2) Increased apprentice training requirements are necessary to ensure apprentices have adequate hands-on training for lens neutralization; 3) Clarification of renewal requirements for persons who have recently received or reactivated their licenses are necessary to prevent redundant continuing education requirements and/or licensing fees; 4) Removal of the requirement for “live” continuing education courses is necessary so licensees are able to obtain their credits online, as is standard practice now for many licensing boards; 5) Clarification of the responsibilities of supervisors when training their apprentices is necessary to prevent apprentices from performing dispensing practices beyond their current skills/abilities; 6) The requirement for licensees to cooperate with Board investigations is necessary to the board’s ability to enforce its laws and regulations; 7) New mandates for timely completion of apprenticeship requirements and prohibitions on new licenses are necessary to prevent abuse of existing regulations and policies; 8) New procedures are necessary for the timely, efficient, and confidential handling of complaints.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Board discussed and crafted the language that ultimately became R137-17 at its regular meetings on October 12, 2016, December 14, 2016, April 5, 2017, August 23, 2017, and October 11, 2017. At each such meeting, some of the Board’s licensees were in attendance, and several spoke as to various aspects of the drafts at issue. Based upon the discussions, the Board made some changes to the proposed language. No participant in any of the discussions presented any

evidence or argument that the proposed drafts would have a positive or negative impact on small businesses.

On December 18, 2017, the Board held a workshop regarding the language that became R137-17. Attending and participating in the workshop were some of the Board's licensees. 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 May 22, 2018, the Board held a regulation hearing regarding R137-17 at the Clark County Library, Large Conference Room, 1401 E. Flamingo Road, Las Vegas, Nevada. Copies of the Notice of Hearing and the proposed text of R137-17 were e-mailed to all of the Board's licensees for whom the Board had e-mail addresses and mailed to all people who have sought such public documents pursuant to the Nevada Open Meeting Law. The Board sent the Notice of Hearing and proposed text of R137-17 to a total of 499 people. At the hearing, no member of the public attending the meeting commented and no written comments regarding R137-17 were received. No participant in any of the discussions presented any evidence or argument that the proposed drafts would have a positive or negative impact on small businesses. The regulation was passed unanimously without amendment.

A summary of the public comment, as required by NRS 233B.066(1)(b), may be obtained by contacting Corinne Sedran, Executive Director, by e-mail addressed to info@nvopticians.org, by phone at (775) 689-0132, or by regular mail addressed to Corinne Sedran, Executive Director, 4790 Caughlin Parkway #241, Reno, Nevada 89519-0907.

- 3. The number of persons who:**
 - (a) Attended the December 18, 2017 Workshop - 31**
 - (b) Testified at the December 18, 2017 Workshop – 4**

- 4. The number of persons who:**
 - (a) Attended the May 22, 2018 Hearing - 29**
 - (b) Testified at the May 22, 2018 Hearing – 0**

- 5. The number of persons who:**
 - (a) Submitted written comments for the December 18, 2017 Workshop - 1**
 - (b) Submitted written comments for the May 22, 2018 Hearing – 0**

- 6. For each person identified in subparagraph (b) and (c) above, following is the information that was provided to the Nevada State Board of Dispensing Opticians:**
 - Jennifer Ryan-Koening, LensCrafters Regional Manager**
 - Ryan Henderson, License #428**
 - Arylis Wisecup, License #249**
 - Brent Hanson, License #601**

7. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited by emailing the Notice of Hearing and the text of R137-17 to all 499 of the Board's licensees for whom the Board had a valid e-mail address and to all persons on the Board's mailing list maintained pursuant to the Open Meeting Law.

The Board received a single response from the National Association of Optometrists and Opticians. This organization does not have a web presence, however one of our board members surmised from her research that the organization provides legal representation to LensCrafters. The response indicates the proposed regulations will have a negative impact on business by making it too difficult to hire business managers and retain apprentice opticians. New training requirements for apprentices will create additional record-keeping responsibilities for employers.

The Board determined to go forward with the proposed regulations for the following reasons: 1) Conflicts of interest between apprentices and their supervisors have arisen under existing regulations when apprentices have assumed managerial authority over their supervisors, some of which have resulted in disciplinary action; 2) Tightening of restrictions on apprentices who do not timely fulfill their apprenticeship requirements is necessary to prevent abuse of the program. The law allows for four renewals of an apprentice license, however, many apprentices have not completed their requirements for over 10 years due to loopholes in the existing regulations; 3) New apprentice training requirements ensure apprentices receive hands-on, as opposed to only theoretical (book) training.

Other interested persons may obtain a copy of the comments received by contacting the Board's Executive Director.

8. If the regulation was adopted with changes to any part of the proposed regulation, a summary of the reasons for adopting the regulation with change.

No changes were made, and the language of R137-17 was adopted unanimously by the Board without amendment.

9. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects.

The Board believes the regulation will have neither adverse nor beneficial economic effects upon the practices of optical dispensaries. Please see the Board's Small Business Impact Statement for additional details.

Likewise, the Board believes the regulation will have neither adverse nor beneficial economic effects on the public, as it pertains exclusively to the functions of practitioners.

(b) Both immediate and long-term effects.

The Board believes the regulation will have neither immediate nor long-term economic effects upon the practices of optical dispensaries. Please see the Board's Small Business Impact Statement for additional details.

Likewise, the Board believes the regulation will have neither immediate nor long-term economic effects upon the public, as it pertains exclusively to the functions of practitioners.

10. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no significant cost to the Nevada State Board of Dispensing Opticians to enforce the proposed regulation.

11. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

12. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This proposed regulation is not more stringent than any federal law or regulation.

13. If the 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 regulation does not affect any fee.

Signed this _____ day of June, 2018.

Corinne Sedran, Executive Director
Nevada State Board of Dispensing Opticians