

Digest for Adopted Regulation R_073-12

The Board of Dispensing Opticians is authorized to adopt such rules and regulations as it may deem necessary to carry out the provisions of chapter 637 of NRS and to empower any member to conduct any investigation necessary to its purposes. (NRS 637.070) Furthermore, the Board is authorized to impose disciplinary action on a person who violates any provision of chapter 637 of NRS or any regulation of the Board. (NRS 637.150) **Section 2** of this regulation provides that the Board may investigate the place of dispensing of a licensee to ensure compliance with statute and regulations and may initiate disciplinary action for a violation.

Chapter 622A of NRS prescribes the administrative procedure before certain regulatory bodies, including the Board of Dispensing Opticians. **Section 3** of this regulation provides that the Board may hold hearings and conduct investigations relating to its duties in a manner that is consistent with the provisions of chapter 622A of NRS. Existing regulations govern practice before the Board. (NAC 637.340, 637.420-637.440, 637.480, 637.550, 637.590, 637.620) **Sections 20, 22-24, 28 and 30-32** of this regulation revise these provisions to make them consistent with chapter 622A of NRS. Additionally, **section 39** of this regulation repeals certain sections of NAC which contain various administrative procedures that are superseded by provisions in chapter 622A of NRS.

Existing regulations establish guidelines for the construction of chapter 637 of NAC. (NAC 637.010) **Section 4** of this regulation provides that the chapter will be construed to effectuate the purposes of chapter 622A and other provisions of law, as applicable.

Existing regulations prohibit an unlicensed person from dispensing ophthalmic products to the public. (NAC 637.140) **Section 5** of this regulation provides that, under certain

circumstances, certain laboratory personnel shall be deemed not to be engaged in the practice of ophthalmic dispensing and need not be licensed under chapter 637 of NRS.

Existing regulations require an applicant for a license as a dispensing optician to provide specified proof of completion of certain training and experience. (NAC 637.148) **Section 6** of this regulation provides that the Board may request and accept other documentation proving completion of the required training and experience.

Existing regulations set forth the required contents of an application for an examination required to obtain a license as a dispensing optician and provide that an applicant who has failed an examination administered by the Board may retake the examination not more than three times. (NAC 637.150) **Section 7** of this regulation revises the required contents of such an application and authorizes an applicant who has failed an examination to request to retake the examination.

Existing regulations set forth the contents of the Board's examination for a license as a dispensing optician. (NAC 637.160) **Section 8** of this regulation specifies the form in which the various sections of the examination will appear and provides that the Board will provide written notification of the percentage scored in each subject to an applicant who fails the examination.

Existing regulations set forth the requirements for the reactivation of an inactive license or inactive limited license held by a dispensing optician. (NAC 637.215) **Section 9** of this regulation revises those requirements to require, among other things, the submittal of an application for the renewal of a license.

Existing regulations provide that a duplicate license issued to an applicant will be stamped as a duplicate. (NAC 637.225) **Section 10** of this regulation eliminates that provision.

Existing regulations require a licensee to notify the Board of a change of the licensee's home or business address within 30 days. (NAC 637.230) **Section 11** of this regulation requires a licensee to notify the Board of a change of the licensee's business address within 10 days.

Existing regulations set forth behaviors that the Board will interpret as falling within "unethical or unprofessional conduct." (NAC 637.235) **Section 12** of this regulation includes among those behaviors the violation of an order issued by the Board.

Existing regulations set forth the requirements for a person who wants to be employed as an apprentice dispensing optician. (NAC 637.260) **Section 13** of this regulation revises the requirements to specify certain proof and statements that an applicant for licensure as an apprentice dispensing optician must provide to the Board.

Existing regulations set forth the requirements which must be satisfied for an apprentice dispensing optician to have his or her expired license reinstated. (NAC 637.263) **Section 14** of this regulation revises those provisions to require the apprentice dispensing optician to provide proof of orderly progress toward the completion of his or her apprenticeship rather than proof of completion of continuing education.

Existing regulations set forth certain requirements for the supervision of an apprentice dispensing optician. (NAC 637.280) **Section 15** of this regulation requires the supervisor and the apprentice dispensing optician to be employed at the same work location.

Existing regulations set forth the means by which an apprentice dispensing optician may demonstrate orderly progress toward the completion of his or her apprenticeship. (NAC 637.287) **Section 16** of this regulation sets forth the requirements which the Board will consider to constitute orderly progress.

Existing regulations require an apprentice dispensing optician to successfully complete certain continuing education for each year of his or her apprenticeship. (NAC 637.295) **Section 17** of this regulation revises this provision to require the apprentice dispensing optician to make orderly progress toward completion of his or her apprenticeship.

Existing regulations require an apprentice dispensing optician to amend his or her application within 30 days after a change in his or her employment. Existing regulations also provide that the Board will not approve more than 30 days of experience gained by an apprentice with a new employer before an amended application is filed with the Board. (NAC 637.300) **Section 18** of this regulation reduces these periods of time to 10 days.

Existing regulations provide that a person designated by the Board shall review, and may investigate, complaints alleging violations of the provisions of chapter 637 of NRS or NAC. (NAC 637.337) **Section 19** of this regulation provides that the person reviewing the complaint may also consider other evidence during such a review.

Existing regulations require a person who appears in a proceeding before the Board to be ethical and courteous. (NAC 637.410) **Section 21** of this regulation provides that the Board may remove a person from a proceeding for failing to comply with that requirement.

Existing regulations provide for decisions on motions filed with the Board. (NAC 637.450) **Section 25** of this regulation provides that the Board may authorize the President of the Board or his or her designee to rule on certain motions without a hearing.

Existing regulations require the filing of certain pleadings and motions with the Board. (NAC 637.460) **Section 26** of this regulation additionally requires the documents to be mailed or delivered to the Board's counsel of record.

Existing regulations require service by mail of certain documents in an action before the Board. (NAC 637.470) **Section 27** of this regulation requires notice of a disciplinary hearing to be served personally or by certified mail upon the person who is the subject of the disciplinary hearing and to be served by mail upon an employer of an apprentice dispensing optician who is the subject of a hearing.

Existing regulations require a petition on a matter within the Board's jurisdiction to be received by the Board at least 10 days before the meeting at which the petitioner wishes to be heard, unless waived by the Board. (NAC 637.490) **Section 29** of this regulation increases this period of time to 45 days.

Existing regulations set forth procedures for the consideration of petitions for declaratory orders or advisory opinions by the Board. (NAC 637.650-637.690) **Sections 33-37** of this regulation revise those procedures.

Existing regulations set forth the procedure for the consideration of petitions for the adoption, amendment or repeal of a regulation. (NAC 637.700) **Section 38** of this regulation provides that any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation pursuant to the provisions of NRS 233B.100.