

**ADOPTED REGULATION OF THE
BOARD OF DISPENSING OPTICIANS**

LCB File No. R201-07

Effective April 17, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 3, 4, 6 and 9, NRS 637.070; §2, NRS 637.070 and 637.073; §5, NRS 637.045 and 637.070; §§7 and 8, NRS 637.070 and 637.100.

A REGULATION relating to dispensing opticians; adopting by reference for use in this State certain standards of quality for prescription ophthalmic lenses; requiring a dispensing optician to have certain optical equipment at the place of dispensing; increasing the salary of members of the Board of Dispensing Opticians; revising various provisions governing licensing; and providing other matters properly relating thereto.

Section 1. Chapter 637 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *The Board hereby adopts by reference for use in this State the recommendations of the American National Standards Institute for prescription ophthalmic lenses set forth in ANSI Z80.1-2005, as those standards existed on April 17, 2008.*

2. If the publication adopted by reference in subsection 1 is revised, the Board will review the revision to determine its suitability for this State. If the Board determines that the revision is not suitable for this State, the Board will hold a public hearing to review its determination and give notice of that hearing within 90 days after the date of the publication of the revision. If, after the hearing, the Board does not revise its determination, the Board will give notice that the revision is not suitable for this State within 90 days after the hearing. If the Board

does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

3. A copy of the publication adopted by reference in subsection 1 may be obtained from the American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, New York 10036, by telephone at (212) 642-4900 or at the Internet address <http://www.webstore.ansi.org>, at a price of \$63.20 for members and \$79.00 for nonmembers.

Sec. 3. 1. A dispensing optician:

(a) Shall have the following optical equipment at the place of dispensing:

(1) A lens clock;

(2) A lensometer; and

(3) A pupilometer.

(b) May have such additional equipment as he determines necessary.

2. All equipment must be in good working order.

Sec. 4. With respect to an applicant for a special license as a dispensing optician pursuant to NRS 637.127, the Board will interpret:

1. The requirement of passing an examination administered by the Board set forth in paragraph (i) of subsection 1 of NRS 637.127 to mean that the applicant must pass the Board's examination for a license as a dispensing optician set forth in NAC 637.160.

2. The requirement of 5 years of experience as a dispensing optician set forth in subparagraph (2) of paragraph (j) of subsection 1 of NRS 637.127 to include as a portion thereof the requirement of 100 hours of experience relating to the fitting and filling of prescriptions for contact lenses set forth in subsection 1 of NAC 637.148.

Sec. 5. NAC 637.120 is hereby amended to read as follows:

637.120 Each member of the Board is entitled to receive a salary of ~~[\$80]~~ \$150 per day while engaged in the business of the Board.

Sec. 6. NAC 637.144 is hereby amended to read as follows:

637.144 *1.* A person who manages a business engaged in ophthalmic dispensing ~~is~~
~~—1.]~~:

(a) Must ~~[hold a license as]~~ *be* a dispensing optician ~~[issued pursuant to NRS 637.120 or a limited license as]~~ *or* a dispensing optician ~~[issued pursuant to NRS 637.121;~~
~~—2.]~~ *with a limited license;*

(b) Is responsible for supervising the ophthalmic dispensing and the consulting on optical fashions conducted at the business engaged in ophthalmic dispensing; and

~~[3.]~~ (c) Must, within 10 days after becoming the manager of the business, notify the Board, in writing, that he is the manager.

2. Each ophthalmic dispensing area of a business engaged in ophthalmic dispensing must have an ophthalmic manager as described in subsection 1 who makes decisions that concern ophthalmic dispensing and a business manager who makes decisions that do not concern ophthalmic dispensing, except that the ophthalmic manager and the business manager may be the same person. The ophthalmic manager must have ultimate authority with respect to any matter relating to ophthalmic dispensing governed by the provisions of this chapter or chapter 637 of NRS, and the decision of the ophthalmic manager with respect to any such matter may not be superseded by the business manager.

3. An apprentice dispensing optician shall not:

(a) *Act as a person who manages a business engaged in ophthalmic dispensing; or*

(b) Under any circumstances act in such a manner as to supersede the authority or any decision of a dispensing optician or a dispensing optician with a limited license.

4. As used in this section, “person who manages a business engaged in ophthalmic dispensing” means the person who is in charge of the ophthalmic dispensing area of such a business. The term does not include the general manager of a retail establishment who is not in charge of ophthalmic dispensing.

Sec. 7. NAC 637.150 is hereby amended to read as follows:

637.150 1. An application for an examination required to obtain a license as a dispensing optician pursuant to NRS 637.120 must be made to the Board at least 60 days before the date of the examination. The application must be made on forms provided by the Board.

2. The applicant must provide with the application:

(a) Proof that he has met the requirements set forth in NRS 637.100;

(b) A full-face, close-up photograph of himself taken within the last year, not smaller than 2 by 2 inches;

(c) Three letters concerning his character from references;

(d) An affidavit attesting to the truthfulness of all statements made in the application; ~~and~~

(e) Proof of completion of the hours of training and experience required pursuant to subparagraph (2) of paragraph (g) of subsection 1 of NRS 637.100 ~~;~~ *and*

(f) A statement indicating whether he has had a professional license revoked or suspended in this State or any other state or jurisdiction. If so, the applicant must disclose the circumstances of the revocation or suspension or submit to a background check.

3. *For the purposes of paragraph (d) of subsection 1 of NRS 637.100, the Board will consider an applicant who has received a general equivalency diploma to have graduated from the equivalent of an accredited high school.*

4. An applicant who has successfully completed a course of study in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing approved by the Board must obtain the required 2,000 hours of training and experience.

~~[4.]~~ 5. The submission of false or misleading statements on the application filed with the Board or the failure to provide information required on any form is sufficient cause for the Board to reject the application or revoke the license of a dispensing optician.

~~[5.]~~ 6. A fee of \$350 must accompany the application. Upon approval by the Board, an applicant who has failed the examination may be reexamined for a license as a dispensing optician if the applicant submits to the Board a fee of \$250 and a written request for reexamination at least 60 days before the next date of examination.

~~[6.]~~ 7. An applicant who has failed the examination may retake the examination not more than three times.

Sec. 8. NAC 637.280 is hereby amended to read as follows:

637.280 1. A supervisor who is licensed in this State must be on the premises of the optical establishment at all times to directly supervise an apprentice dispensing optician. In all instances of a supervisor's absence, a substitute supervisor who is licensed in this State must be obtained to directly supervise the apprentice dispensing optician.

2. When a permanent change of supervision is made by the employer, the supervisor and apprentice dispensing optician shall notify the Board, in writing, of the change within 10 days.

3. An apprentice dispensing optician may not be supervised by an ophthalmologist, an optometrist or a dispensing optician who directly supervises two or more other apprentice dispensing opticians.

4. Except as otherwise provided in subsection 5, an apprentice dispensing optician and his supervisor must be employed by the same employer.

5. An apprentice dispensing optician may be directly supervised by any dispensing optician authorized to fit and fill prescriptions for contact lenses, ophthalmologist or optometrist in order to complete the 100 hours of training and experience in the fitting and filling of prescriptions for contact lenses required pursuant to subparagraph (2) of paragraph (g) of subsection 1 of NRS 637.100.

6. *An apprentice dispensing optician and his supervisor must each be able to read, write, speak and understand the English language.*

7. As used in this section:

(a) “Directly supervise” means physically providing individual direction, control, inspection and evaluation of work based on the training, experience and education of the apprentice dispensing optician, and any other relevant factors.

(b) “Supervisor” means an ophthalmologist, an optometrist or a dispensing optician who directly supervises the apprentice dispensing optician.

Sec. 9. NAC 637.170 is hereby repealed.

TEXT OF REPEALED SECTION

637.170 Waiver of examination; reexamination. (NRS 637.070, 637.100, 637.110)

1. The examination required for a license as a dispensing optician pursuant to NAC 637.150 will be waived if an applicant:

- (a) Meets all other requirements for a license in this State;
- (b) Holds a license in good standing from another state that qualifies him to fit and adapt eyeglasses and contact lenses;
- (c) Within the period established by the Board, has passed an examination which was equivalent to the Board's examination required of an applicant for a license; and
- (d) Has worked as a dispensing optician for 75 percent or more of the time between passing that examination and making application to the Board.

2. Within 90 days after receiving an application for such a waiver, the Board will seek to verify all documents submitted with the application. A license will not be issued under such a waiver until satisfactory documentation has been received by the Board.

3. An applicant who requests a waiver of the examination must appear in person before the Board so that the Board may administer an examination consisting of questions pertaining to his qualifications to be licensed as a dispensing optician. The applicant may appear for this purpose before the Board verifies the documentation supporting his application. To pass an examination

administered pursuant to this subsection, the applicant must achieve a score of at least 70 percent in each of the six sections of the examination.

4. An applicant may request a waiver of the examination only once.

5. Upon approval by the Board, an applicant who fails the examination administered pursuant to subsection 3 may be reexamined at the next general examination for a license as a dispensing optician if the applicant submits to the Board a fee of \$250 and a written request for reexamination at least 60 days before the next date of general examination.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R201-07

The Board of Dispensing Opticians adopted regulations assigned LCB File No. R201-07 which pertain to chapter 637 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. 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.**

Public comment was solicited at Board meetings, hearings and workshops and at the hearing on the Adoption of the regulations.

- 2. The number persons who:**
(a) Attended each hearing: 9
(b) Testified at each hearing: 2
(c) Submitted to the agency written comments: None

- 3. 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.**

Comment was solicited from dispensing opticians by reviewing the regulations at Board meetings and discussing the regulations at the regulation workshop.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulations were adopted with changes to the proposed regulations.

- 5. 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; and**
(b) Both immediate and long-term effects.

There are no adverse or beneficial economic effects of the adopted regulations. There are no immediate or long-term economic effects of the adopted regulations.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no cost to the Board for enforcement of the adopted regulation.

- 7. 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 is no overlap or duplication. There are no federal regulations that overlap or duplicate.

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

Not applicable.

- 9. 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.**

No fee increases are proposed in the regulation.