

# **PROPOSED REGULATION OF THE BOARD OF DISPENSING OPTICIANS**

**LCB File No. R073-12**

## **NOTICE OF INTENT TO ACT UPON A REGULATION**

### **Notice of Workshop and Hearing to for the Adoption, Amendment or Repeal of Regulations of the State of Nevada Board of Dispensing Opticians**

**LCB File R073-12**

The State of Nevada Board of Dispensing Opticians will conduct a workshop on Friday, March 15, 2013 at 3 p.m. The workshop will be held via videoconference at Truckee Meadows Community College, 7000 Dandini Blvd., Sierra Bldg. Room 100, Reno, Nevada 89512 and the College of Southern Nevada, 6375 W Charleston Blvd, Room H105, Las Vegas, Nevada 89146. A hearing on the matter will be conducted Wednesday, April 10, 2013, at 3pm. The hearing will be held at the Airport Plaza Hotel, Second Floor, 1981 Terminal Way, Reno, Nevada 89502.

Persons wishing to comment upon the proposed action of the State of Nevada Board of Dispensing Opticians may appear at the scheduled public workshop and/or hearing or may address their comments, data, views, or arguments, in written form, to the State of Nevada Board of Dispensing Opticians, 5565 Wedgewood Circle, Sparks, NV 89436-3716 or via email to [nvbdo@govmail.state.nv.us](mailto:nvbdo@govmail.state.nv.us). Written submissions must be received by Friday, March 22, 2013, by the Nevada Board of Dispensing Opticians. At the hearing, if no person who is directly affected by the proposed action appears to request time to make an oral presentation, the State of Nevada Board of Dispensing Opticians may proceed immediately to act upon any written submissions.

The following information is provided pursuant to the requirements of NRS 233B.0603:

#### **1. The need for and the purpose of the proposed regulation or amendment.**

The purpose of the proposed regulation is to amend Chapter 637 of the Nevada Administrative Code to more effectively accomplish the Board's mission of protecting the public's health, safety, and welfare without imposing unnecessarily regulatory barriers to the practice of opticianry. While the bulk of the provisions of NAC Chapter 637 are needed to ensure that Nevada citizens enjoy the healthy vision and good eyesight that are essential elements in their overall lives, the proposed regulation eliminates much that was unnecessary, unclear, and duplicative. The revisions recognize the need for the expert guidance of licensed opticians as the pace of technological improvements in vision aids continues to accelerate. The regulation repeals 17 sections, revises 34 sections, and adds one section.

The following provides more detailed information:

## NEW REGULATION

The Board proposes this provision to better ensure compliance with the statutes and regulations which were passed and adopted to protect the public's health, safety, and welfare. The Board has the authority to file a complaint if it believes a licensee has violated a provision of Chapter 637 of NRS and/or NAC. This provision authorizes workplace inspections to better determine if the Board should file such complaints. It also reflects the Board's dedication to ensuring that Board complaints are based on evidence of violations of statutory requirements or adopted regulations.

## LICENSING

The sections under this title establish minimum standards for entry into a profession which requires education, training, and experience to practice safely and competently to protect public's health, safety, and welfare. The proposed revisions repeal or revise sections which unnecessarily restrict the ability of an individual to enter and/or remain in the profession, and sections which were not aligned with related provisions of Chapter 637. They also provide examinees with more detailed information regarding the subjects of the written and practical sections of the examination and eliminate the exam review, which is an uncommon practice that has not proven beneficial to examinees, nor has it been cost effective.

## PROFESSIONAL PRACTICE

These sections are needed to ensure licensees carry out their professional duties in a manner that protect the public's health, safety, and welfare. The Board proposes revisions to NAC 637.235 to make it clear that a violation of a Board Order is grounds for disciplinary action pursuant to NAC 637.690 (revised) and NRS 637.150(1)(l).

## APPRENTICE DISPENSING OPTICIANS

The sections under this title outline the essential requirements needed to ensure the apprentice will gain the necessary skills, ability, and knowledge to work safely and effectively in a complex and challenging working environment. The proposed revisions are needed because continuing education is not a substitute for the knowledge, skills, and abilities acquired through the formal ophthalmic education and training programs required by NAC 637.287. In addition, successful completion of those programs is required for qualification for the Nevada state ophthalmic dispenser's examination, while continuing education credits are not an examination prerequisite. Other revisions are needed to provide clarity regarding under what circumstances continuing education is required for apprentice license renewal, and to align sections with the provisions of NAC 637.290 and NAC 637.295.

## PRACTICE BEFORE THE BOARD OF DISPENSING OPTICIANS

These provisions establish procedures and provide guidance on the Board's complaint and disciplinary process for licensees, attorneys, and other interested parties. They protect the public's health, safety, and welfare by providing means for reporting, investigating, and taking action on potential violations of Chapter 637 of NRS and NAC, while ensuring due process for those accused of such violations. The proposed regulation repeals or revises sections which are outdated, duplicative of NRS 622A and NRS 233B, or in conflict with Nevada's Open Meeting Law (NRS Chapter 241).

**2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.**

The proposed regulations authorize inspections of places of dispensing; establish certain procedures for hearings and investigations; specify certain acts by certain laboratory personnel as not constituting the practice of ophthalmic dispensing; revise provisions relating to the training and education required of applicants for licensure as dispensing opticians; revise provisions relating to the format of the examination for a license; revise requirements for reactivation of licenses; revise the length of time in which a licensee must notify the Board of Dispensing Opticians of a change of address; revise provisions specifying grounds for disciplinary action; revise requirements for licensure as an apprentice dispensing optician; revise provisions relating to the reinstatement of delinquent licenses of apprentice dispensing opticians; revise provisions relating to the supervision of apprentice dispensing opticians; revise provisions relating to the progress toward completion of an apprenticeship; revise provisions relating to continuing education; revise the length of time in which an apprentice dispensing optician must notify the Board of a change of employer; revise provisions relating to the conduct required of persons appearing in proceedings before the Board; revise provisions relating to the filing and service of pleadings, motions and other documents; revise provisions relating to hearings held before the Board; revise provisions relating to petitions for declaratory orders and advisory opinions of the Board; revise the procedure for consideration of petitions for adoption, amendment or repeal of regulations; and providing other matters properly relating thereto.

**3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

**(a) Adverse and beneficial effects**

The adoption of the regulation should not result in any adverse economic effects on either the licensee or the general public. Beneficial effects may result from the elimination of unnecessary, unclear, and duplicative regulations.

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

The immediate and long-term effect of eliminating unnecessary and duplicative provisions and clarifying those which are unclear should be beneficial, to both licensees and the general public.

**4. The estimated cost to the agency for enforcement of the proposed regulation.**

The cost to the Board should be minimal.

**5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**

The proposed regulation does not overlap or duplicate any regulation.

**6. If the regulation is required pursuant to federal law, a citation and description of the federal law.**

Not applicable.

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

Not applicable.

**8. Whether the proposed regulation establishes a new fee or increases an existing fee.**

The regulation does not establish a new fee or increase an existing fee. (The Board last raised licensure fees in 2004.)

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at State of Nevada Board of Dispensing Opticians, 5565 Wedgewood Circle, Sparks, NV 89436-3716, its website at [www.opticalboard.state.nv.us](http://www.opticalboard.state.nv.us), at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. Upon adoption of any regulation, the Board, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been sent to all licensees and persons on the Board's distribution list; mailed to all Nevada County Public Libraries, the Nevada State Library & Archives, and the Legislative Counsel Bureau for inclusion in the Register of Administrative Regulation; and has been posted on the Board's website [www.opticalboard.state.nv.us](http://www.opticalboard.state.nv.us) under the tab *Laws & Regulations*.

**Nevada County Public Libraries**

Lyon County Library  
20 Nevin Way  
Yerington, NV 89447

Humboldt County Library  
85 East 5th Street  
Winnemucca, NV 89404

Goldfield Public Library  
Po Box 430  
Goldfield, NV 89013

Ormsby Public Library  
900 North Roop Street  
Carson City, NV 89701

White Pine County Library  
950 Campton St  
Ely, NV 89301

Elko County Library  
720 Court Street  
Elko, NV 89801

Douglas County Library  
Po Box 337  
Minden, NV 89423

Clark County Library  
833 N. Las Vegas Blvd.  
Las Vegas, NV 89101

Pershing County Library  
Po Box 781  
Lovelock, NV 89419

Eureka Branch Library  
Po Box 293  
Eureka, NV 89316

Lincoln County Library  
Po Box 330  
Pioche, NV 89043

Washoe County Library  
301 S. Center Street  
Reno, NV 89505-2151

Battle Mountain Library  
Po Box 141  
Battle Mountain, NV 89820

Mineral County Library  
Po Box 1390  
Hawthorne, NV 89415

Tonopah Public Library  
Po Box 449  
Tonopah, NV 89049

Storey County Public Library  
95 South R Street  
Virginia City, NV 89440

Churchill County Library  
553 South Main St.  
Fallon, NV 89406-3306