

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

LCB File No. R042-02

Effective August 29, 2002

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

AUTHORITY: §§1-8, 10-14, 16 and 25-37, NRS 637.070; §§9 and 18, NRS 637.070 and 637.122; §§15 and 17, NRS 637.070 and 637.110; §§19-22, NRS 637.070 and 637.135; §§23 and 24, NRS 637.070 and 637.140.

Section 1. Chapter 637 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Board” means the board of dispensing opticians.*

Sec. 4. *“Dispensing optician” means a person engaged in the practice of ophthalmic dispensing.*

Sec. 5. 1. *As used in subsection 11 of NRS 637.150, the board will interpret the phrase “unethical or unprofessional conduct” to include, without limitation:*

- (a) Performing acts beyond the scope of the practice of ophthalmic dispensing;*
- (b) Performing dispensing duties while under the influence of intoxicating liquor or a controlled substance;*
- (c) Presenting any false or deceptive information to the board or public;*
- (d) Engaging in the sexual harassment of any employee or consumer;*

(e) Attempting to obtain or retain a consumer, either directly or indirectly, by way of intimidation, coercion or deception; or

(f) Engaging in conduct that would lead to the harm or endangerment of the public.

2. As used in this section, “sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an environment which is intimidating, hostile or offensive to an employee or consumer.

Sec. 6. *Any member of the board or public may file a written complaint with the board if he believes:*

1. A licensee has violated a provision of this chapter or chapter 637 of NRS; or

2. An unlicensed person is engaged in activities requiring a license pursuant to the provisions of this chapter or chapter 637 of NRS.

Sec. 7. *1. A complaint filed pursuant to section 6 of this regulation must:*

(a) Be on a form prescribed by the board;

(b) Be signed and verified by the person filing the complaint, under penalty of perjury; and

(c) Include the name, address and telephone number of the person filing the complaint.

2. The form prescribed by the board must state that:

(a) The person making the complaint may be required to testify at a judicial or administrative proceeding; and

(b) The board may send a notice and copy of the complaint to the licensee or the unlicensed person who is the subject of the complaint.

Sec. 8. 1. *The person designated by the board to review complaints filed pursuant to section 6 of this regulation shall review each complaint and may cause any complaint to be investigated.*

2. If a complaint is filed against a licensee pursuant to subsection 1 of section 6 of this regulation:

(a) The matter will be placed on the board's agenda to consider whether the complaint should be dismissed or investigated further or whether an accusation should be filed pursuant to NAC 637.440; and

(b) The board may send written notice and a copy of the complaint to the licensee who is the subject of the complaint.

3. If a licensee who is the subject of a complaint does not respond within 20 days after receipt of a written notice of a complaint, he is deemed to have admitted the allegations in the complaint.

4. If a complaint is filed against an unlicensed person pursuant to subsection 2 of section 6 of this regulation:

(a) The matter will be placed on the board's agenda to consider whether the complaint should be dismissed or investigated further or whether legal action should be initiated; and

(b) The board may send written notice and a copy of the complaint to the unlicensed person who is the subject of the complaint.

Sec. 9. 1. *A licensed dispensing optician or licensed apprentice dispensing optician who desires to obtain a license to fit contact lenses by obtaining the training and experience required pursuant to NRS 637.122 must file an application with the board for a training license to fit contact lenses.*

2. An application for a training license to fit contact lenses must include:

(a) The date of the application for licensure;

(b) The date when the training will begin;

(c) The name and address of the optical establishment where the training will be conducted;

(d) The name and license number of the supervising licensed dispensing optician licensed to fit contact lenses, optometrist or ophthalmologist; and

(e) A fee of \$50.

3. Two years after an initial training license to fit contact lenses has been issued, the board may, upon the receipt of a new application and fee of \$50, issue a new training license to fit contact lenses to the applicant.

Sec. 10. *1. A supervisor who is licensed in this state must be on the premises of the optical establishment at all times to supervise a person holding a training license to fit contact lenses. In all instances of a supervisor's absence, a substitute supervisor who is licensed in this state must be obtained to supervise the person holding a training license to fit contact lenses.*

2. When a permanent change of supervisor is made by the employer, the board must be notified of the change within 30 days.

3. As used in this section, "supervisor" means an ophthalmologist, an optometrist or a licensed dispensing optician who is licensed to fit contact lenses.

Sec. 11. *1. Except as otherwise provided in subsection 2 and NRS 639.2825, a person who does not hold a license to fit contact lenses or a training license to fit contact lenses shall not sell, furnish, dispense or fit contact lenses.*

2. A licensed dispensing optician whose license has been issued by the board may, pursuant to a prescription, sell or furnish a prepackaged contact lens that does not require any adjustment, modification or fitting if he:

(a) Has passed the Contact Lens Registry Examination of the National Committee of Contact Lens Examiners; and

(b) Holds a current certificate of registration issued by the National Committee of Contact Lens Examiners.

3. A licensed dispensing optician who chooses to sell or furnish a prepackaged contact lens pursuant to this section shall:

(a) Comply with the continuing education requirements for a dispensing optician who is licensed to fit contact lenses as set forth in NAC 637.200 and 637.210; and

(b) Submit to the board, as part of the annual renewal of his license as a dispensing optician, a copy of his current certificate of registration issued by the National Committee of Contact Lens Examiners.

Sec. 12. 1. *Except as otherwise provided by specific statute, a person who does not hold a license as a dispensing optician or as an apprentice dispensing optician shall not provide any ophthalmic products to the public.*

2. As used in this section, "ophthalmic products" includes, without limitation:

(a) Ophthalmic lenses for sunglasses, dive masks, sports goggles and occupational goggles;

(b) Ophthalmic prescription lenses;

(c) Ocular prosthetic devices; and

(d) All prescription and nonprescription contact lenses, including, without limitation, prepackaged contact lenses, individual contact lenses, cosmetic contact lenses and theatrical contact lenses.

Sec. 13. NAC 637.015 is hereby amended to read as follows:

637.015 As used in NRS 637.090, the board will interpret the term “manage a business engaged in ophthalmic dispensing” to mean having the responsibility for ophthalmic dispensing and having direct supervisory responsibility for employees who engage in ophthalmic dispensing, *including employees who are not licensed pursuant to this chapter and chapter 637 of NRS,* at a single place of business.

Sec. 14. NAC 637.100 is hereby amended to read as follows:

637.100 1. The board will elect its officers at its first regular or special meeting after October 1 of each year.

2. The term of office is 1 year.

~~3. The president shall conduct meetings of the board.~~

~~4. The secretary shall keep accurate minutes of the meetings of the board and examination applications.~~

~~5. The treasurer shall maintain an accounting system reflecting all financial transactions and accounts of the board.]~~

Sec. 15. NAC 637.150 is hereby amended to read as follows:

637.150 1. An application for an examination to determine a person’s fitness to practice optical dispensing must be made to the ~~[secretary of 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 educational 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 inches by 2 inches;
 - (c) Three letters concerning his character from references; and
 - (d) An affidavit attesting to the truthfulness of all statements made in the application.
3. An applicant holding the degree of associate of science in ophthalmic dispensing must obtain the required ~~[1-year]~~ *2,000 hours* of practical experience . ~~[after the degree was conferred.]~~ The degree must be conferred by a school which is accredited by the ~~[American Board of Opticianry.]~~ *Commission on Opticianry Accreditation.*
4. The submission of false or misleading statements on the application filed with the ~~[board's secretary]~~ *board* or the failure to provide information required on the form is sufficient cause for the board to reject the application or revoke the license of a dispensing optician.
5. A fee of \$200 must accompany the application. An applicant who has failed the examination may be ~~[re-examined for a fee of \$150. The fee must accompany the submission of his application for re-examination.]~~ *reexamined for a license as a dispensing optician if the applicant submits to the board a fee of \$150 and a written request for reexamination at least 60 days before the next date of examination.*

Sec. 16. NAC 637.160 is hereby amended to read as follows:

637.160 1. The board's examination for a license as a dispensing optician will test the dispensing skills of the applicant.

2. The examination will test the applicant's proficiency and knowledge in the following subjects:

- (a) Mechanical and geometric optics;

(b) Measurement for, and the fitting and ~~adaption~~ *adapting* of, eyeglasses; ~~and~~

(c) Optical materials, their design and uses as visual aids ~~and~~;

(d) The anatomy and physiology of the eye; and

(e) The provisions of this chapter and chapter 637 of NRS.

3. The examination will be conducted in the presence of at least two board members, both of whom must be licensed dispensing opticians. Other licensed dispensing opticians may be employed by the board to assist in administering the practical examination.

4. An applicant who fails the examination and wishes to have a review of his examination papers must, within 60 days after the examination, notify the board that he requests the review.

Sec. 17. NAC 637.170 is hereby amended to read as follows:

637.170 1. The requirement for an examination will be waived if an applicant:

(a) Meets all other requirements for a license in ~~Nevada;~~ *this state*;

(b) Holds a license in good standing from another state;

(c) Within the past 10 years 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 ~~[one time each calendar year for a period of not more than 3 consecutive years.]~~ *only once.*

5. 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 \$150 and a written request for reexamination at least 60 days before the next date of general examination.

Sec. 18. NAC 637.175 is hereby amended to read as follows:

637.175 1. ~~[To obtain a license to fit contact lenses, a]~~ *A licensed dispensing optician who desires to obtain a license to fit contact lenses pursuant to paragraph (a) of subsection 2 of NRS 637.122 must file with the board an application accompanied by payment of a fee of \$200 for the initial issuance.*

2. ~~[An application for a training license to fit contact lenses must be accompanied by a fee of \$50.~~

~~—3.— Two years after an initial training license is issued, the board may, upon the receipt of a new application and the payment of a fee of \$50, issue a new training license to the applicant.]~~ *A dispensing optician who is licensed to fit contact lenses shall:*

(a) Comply with the continuing education requirements set forth in NAC 637.200 and 637.210; and

(b) Submit to the board, as part of the licensee's annual renewal, a copy of his current certificate of registration issued by the National Committee of Contact Lens Examiners.

Sec. 19. NAC 637.180 is hereby amended to read as follows:

637.180 As used in NAC ~~[637.190]~~ **637.180** to 637.210, inclusive, ~~[“hours” means hours of lecture or instruction.]~~ **“hour of continuing education” means 50 minutes of instruction devoted to a program of continuing education that is related to the practice of ophthalmic dispensing.**

Sec. 20. NAC 637.190 is hereby amended to read as follows:

637.190 1. Except as **otherwise** provided in subsection 2, a **copy of a** certificate proving that the licensee has taken the required hours of continuing education must be submitted to the ~~[secretary of the]~~ board at the time of license renewal.

2. A licensee who received his license by examination is not required to submit a **copy of a** certificate of continuing education for the first renewal of his license.

Sec. 21. NAC 637.200 is hereby amended to read as follows:

637.200 1. Subjects for continuing education in ophthalmic dispensing include:

- (a) Mechanical and geometric optics;
- (b) The measurement, fitting and ~~[adaption]~~ **adapting** of eyeglasses, contact lenses and optical prosthetics;
- (c) Optical materials, their design and uses as visual aids;
- (d) The nature and properties of light and its refraction by lenses;
- (e) The anatomy and physiology of the eye and its appendages;
- (f) The principles of management relating to ophthalmic dispensing;
- (g) The principles of ophthalmic dispensing and the wearing of contact lenses related to ophthalmology and optometry; and
- (h) Refractometry.

2. The board ~~[shall]~~ *will* approve each course of continuing education ~~[. Each course must be sponsored by a school for opticians or a state, regional or national association of opticians.]~~ *and determine the number of credits to be given for each course. A sponsor of a course shall submit to the board an outline of the course, and any other related materials that the board may require, for approval of the course before the course is offered.*

3. A licensee is not entitled to receive credit for a course of continuing education unless the course is approved by the board. *A licensee may seek approval of a course before attending the course to receive credit towards his hours of continuing education by submitting to the board an outline of the course and any other related materials that the board may require.*

4. A licensee who attends the same educational lecture more than once every 3 years is entitled to count only his original attendance as credit toward his hours of continuing education.

5. *A licensee may not receive more than a total of six credits each year towards his hours of continuing education for completion of self-study courses or courses offered over the Internet.*

6. Except as otherwise provided in subsection ~~[6.]~~ 7, a dispensing optician shall complete at least 12 hours of continuing education each year. The dispensing optician is entitled to receive credit for not more than 6 additional hours of continuing education completed during a year and may apply those hours *of continuing education* to the requirement for continuing education for the following year.

~~[6.]~~ 7. A dispensing optician who is licensed to fit contact lenses shall complete at least 14 hours of continuing education each year. The dispensing optician is entitled to receive credit for not more than 7 additional hours of continuing education completed during a year and may apply

those hours *of continuing education* to the requirement for continuing education for the following year.

Sec. 22. NAC 637.210 is hereby amended to read as follows:

637.210 1. The continuing education required for the renewal of a ~~certificate~~ *license* to fit contact lenses must include at least 7 hours of instruction on the subject of fitting contact lenses.

2. A licensed dispensing optician who is ~~certified~~ *licensed* to fit contact lenses and who fails to meet *the* continuing education requirements for ~~recertification as a contact lens dispenser~~ *the renewal of a license to fit contact lenses* does not, for that reason alone, lose his license as a dispensing optician.

Sec. 23. NAC 637.215 is hereby amended to read as follows:

637.215 The holder of a license as a dispensing optician or *a license* to fit contact lenses who has paid the fee for the transfer of the license to an inactive list ~~:~~

~~1. May~~ *as set forth in NAC 637.220:*

1. *Will* remain on the inactive list for a period of 5 years, unless he renews his inactive status pursuant to subsection 3 ~~:~~

~~2. Must obtain all~~ *or reactivates his license pursuant to subsection 4.*

2. *Is not required to obtain the* credits for continuing education required for the holder of an equivalent license that is on active status. ~~[The credits for continuing education may be obtained at any time during the 5-year period.]~~

3. May renew his inactive status for a second 5-year period. To renew his inactive status, the holder of the license must submit to the board a written notice of extension . ~~[and proof of~~

~~compliance with the requirements for continuing education by January 31 of the fifth year of the first period of inactive status.]~~

4. May reactivate his license by:

(a) Submitting a letter to the board requesting the reactivation of his license;

(b) Obtaining, within the 12 months immediately preceding the submission of the letter requesting reactivation of his license:

(1) If the holder is a dispensing optician, 12 hours of continuing education credits; or

(2) If the holder is a dispensing optician who is licensed to fit contact lenses, 14 hours of continuing education credits;

(c) Submitting the statement required pursuant to NRS 637.113; and

(d) Paying the fee for reactivation of his license as set forth in NAC 637.220.

Sec. 24. NAC 637.220 is hereby amended to read as follows:

637.220 1. The fee for ~~an~~ *the* annual renewal of a license:

(a) As a dispensing optician is \$200.

(b) To fit contact lenses is \$100.

(c) ~~Of~~ *As* an apprentice dispensing optician is \$25.

2. The annual delinquency fee for reinstatement of a license:

(a) As a dispensing optician is \$100.

(b) To fit contact lenses is \$50.

(c) As an apprentice dispensing optician is \$25.

3. The fee for the transfer of a license as a dispensing optician or to fit contact lenses to an inactive list is \$150.

4. The fee for the reactivation of a license:

(a) As a dispensing optician is \$200.

(b) To fit contact lenses is \$100.

Sec. 25. NAC 637.230 is hereby amended to read as follows:

637.230 1. Each ~~[dispensing optician licensed in Nevada]~~ *licensee in this state* shall file with the ~~[secretary of the]~~ board his home or mailing address and his business address.

2. The board must be notified of a change of a ~~[dispensing optician's]~~ *licensee's* home or business address within 30 days of such change.

Sec. 26. NAC 637.280 is hereby amended to read as follows:

637.280 1. A ~~[supervising optician or optometrist shall]~~ *supervisor who is licensed in this state must* be on the premises of the optical establishment at all times ~~[]~~ *to supervise an apprentice dispensing optician.* In all instances of a supervisor's absence, a substitute ~~[dispensing optician licensed in the State of Nevada]~~ *supervisor who is licensed in this state* must be obtained to supervise the apprentice ~~[]~~ *dispensing optician.*

2. When a permanent change of supervisor is made by the employer, the board must be notified of the change within 30 days.

3. As used in this section, "supervisor" means an ophthalmologist, an optometrist or a licensed dispensing optician.

Sec. 27. NAC 637.285 is hereby amended to read as follows:

637.285 An apprentice dispensing optician shall, within ~~[1 year]~~ *3 months* after the date of his initial licensure as an apprentice ~~[]~~ *dispensing optician,* submit evidence to the board that he is enrolled in the career progression program of the National Academy of Opticianry or an equivalent program accepted by the board.

Sec. 28. NAC 637.290 is hereby amended to read as follows:

637.290 1. An apprentice *dispensing optician* must receive instruction and personal supervision in the skills required in an optical establishment and in related duties ~~[for the first]~~ *during the* 3 years of training ~~[. The fourth year of apprenticeship]~~ *required pursuant to paragraph (a) of subsection 5 of NRS 637.100. Such training* must include at least ~~[1,800]~~ *2,000* hours of supervised experience at the fitting table and in preparing laboratory orders, verifying processed work from the laboratory and the performance of other duties related to ophthalmic dispensing. The completion of a course of instruction approved by the board that is offered by an accredited school may count toward the completion of the hours of apprenticeship required pursuant to this subsection.

2. An apprentice *dispensing optician* holding the degree of associate of science in ophthalmic dispensing must receive ~~[the same training required for the fourth year of apprenticeship, as stated in subsection 1.]~~ *at least 2,000 hours of supervised experience at the fitting table and in preparing laboratory orders, verifying processed work from the laboratory and the performance of other duties related to ophthalmic dispensing.*

3. Areas of instruction for apprenticeship must include the following:

- (a) Ocular anatomy, physiology, and refractive anomalies of the eye;
- (b) Processes of vision, especially the effect of light, lenses and prisms placed before the eye;
- (c) Theoretical optics;
- (d) Ophthalmic vocabulary;
- (e) Ophthalmic prescription interpretation, lens identification, fitting and adjustment of glasses, and use of instruments in the analysis of lenses in a practical examination; ~~[and]~~
- (f) All facets of ophthalmic dispensing procedures ~~[.];~~ *and*
- (g) *The provisions of this chapter and chapter 637 of NRS.*

Sec. 29. NAC 637.300 is hereby amended to read as follows:

637.300 ~~[A new]~~ *An amended* application *on a form prescribed by the board* must be submitted by an apprentice *dispensing optician* within 30 days after his employment changes. The board will not approve more than 30 days of experience gained by an apprentice *dispensing optician* with a new employer before the ~~[new]~~ *amended* application is received by the board.

Sec. 30. NAC 637.310 is hereby amended to read as follows:

637.310 NAC ~~[637.320]~~ *637.310* to 637.700, inclusive, govern practice and procedure before the board . ~~[of dispensing opticians.]~~

Sec. 31. NAC 637.440 is hereby amended to read as follows:

637.440 *1.* Upon its own initiative, or following the receipt *and review* of a verified complaint ~~[,]~~ *filed pursuant to section 6 of this regulation*, the board may cause an accusation to be filed against ~~[a dispensing optician]~~ *an applicant or holder of a license* alleging one or more grounds for disciplinary action pursuant to NRS 637.150.

2. Facts constituting grounds for disciplinary action must be stated with sufficient particularity to enable the respondent to identify the charges against him. All applicable decisions, statutes, rules and regulations , or orders of the board ~~[should]~~ *must* be cited in the accusation, together with the dates on which the acts or omissions complained of allegedly occurred.

Sec. 32. NAC 637.490 is hereby amended to read as follows:

637.490 A person may petition to appear before the board and be heard on a matter within the board's jurisdiction, as follows:

1. The petition must be submitted to the board on ~~Form No. 3* or on a similar~~ a form *prescribed by the board* and must contain a brief summary of the subject matter and a statement of the petitioner's reasons for wishing to bring the matter before the board.

2. The petition must be received by the board at least 10 days before the meeting at which the petitioner wishes to be heard ~~;~~ but the ~~secretary~~ *board* may waive this time requirement.

3. Upon receipt of the petition, ~~the secretary or~~ any member of the board may make an initial evaluation to determine whether the subject of the petition is a proper item for the agenda of a formal hearing and if so, whether a special meeting of the board must be called for the hearing.

4. If ~~the secretary or~~ a member *of the board* evaluates the petition as presenting a cause for a disciplinary action involving a revocation, suspension or probation, the petitioner must file a formal complaint ~~;~~ and the ~~secretary shall~~ *board will* notify the petitioner of the requirements for making the complaint.

5. If the evaluation of the petition is that it does not present a cause for a disciplinary action involving a revocation, suspension or probation and if the subject matter of the petition is within the jurisdiction of the board, the petition will be placed on the agenda as an item of new business for discussion.

~~[*See adopting agency for form.]~~

Sec. 33. NAC 637.530 is hereby amended to read as follows:

637.530 1. If a party fails to appear at a hearing scheduled by the board and no continuance has been requested or granted, the board may hear the testimony of witnesses who have appeared and consider and dispose of the matter on the basis of the evidence before it.

2. Where, because of an accident, sickness or other reasonable cause, a party fails to appear for a hearing scheduled by the board or fails to request a continuance thereof, the party may within a reasonable period of time, not to exceed 15 days after the date of the hearing, apply to the ~~secretary of the~~ board to reopen the proceedings, and the board upon finding such cause sufficient and reasonable will immediately fix a time and place for hearing and give ~~such~~ *the* party notice thereof.

Sec. 34. NAC 637.660 is hereby amended to read as follows:

637.660 Upon receiving a petition for a declaratory order or an advisory opinion, the board will, within 30 days, deny the petition in writing, stating its reasons, or initiate the following proceedings:

1. Within 4 working days after receiving such a petition, ~~the secretary shall mail~~ *a copy of the petition must be mailed* to each member of the board, at his last known address, ~~a copy of the petition~~ for his consideration.

2. Within 15 days after receiving the copy of the petition, each member shall submit ~~to the secretary~~ a written decision on whether to deny the petition or have it considered by the board.

3. Within 4 working days after ~~receiving~~ all the members' decisions ~~the secretary shall determine~~ *are received, written notice of* the decision of a majority of the members ~~and give written notice of it~~ *will be given* to the petitioner. If that decision is to have the petition considered by the board, the board will issue a declaratory order or advisory opinion within 60 days thereafter.

4. Before issuing any such order or opinion, the board may schedule a hearing on the issue raised in the petition.

Sec. 35. NAC 637.680 is hereby amended to read as follows:

637.680 After the board renders its order or opinion, the ~~[secretary shall]~~ *board will* serve notice of it to the petitioner.

Sec. 36. NAC 637.700 is hereby amended to read as follows:

637.700 The board will use the following procedure upon receipt of a petition requesting the adoption, amendment or repeal of any regulation:

1. Within 4 working days after receiving such a petition, ~~[the secretary shall send, by certified mail with a return receipt requested,]~~ *a copy of the petition must be mailed* to each member of the board, at his last known address, ~~[a copy of the petition]~~ for his consideration.

2. Within 15 days after receiving ~~[his]~~ *the* copy of the petition, each member shall ~~[, by certified mail, with a return receipt requested, send his]~~ *submit a written* decision on disposition of the matter . ~~[to the secretary.]~~

~~—3.—The secretary shall determine the board's decision on disposition of the petition. A majority of the members' decisions is necessary.~~

~~—4.—~~ **3.** Within 4 working days after ~~[he receives]~~ all the members' decisions ~~[, the secretary shall give]~~ *are received, written notice of the decision of the majority of the members will be given to* the petitioner . ~~[written notice of the board's decision.]~~

Sec. 37. NAC 637.270 is hereby repealed.

TEXT OF REPEALED SECTION

637.270 Certificate of registration. Upon acceptance of the application by the board, a certificate of registration as an apprentice dispensing optician will be issued to the applicant. The certificate will be valid for 5 years only at the establishment indicated on the application.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R042-02**

The Board of Dispensing Opticians adopted regulations assigned LCB File No. R042-02 which pertain to chapter 637 of the Nevada Administrative Code on July 17, 2002.

Notice date: 3/22/2002 & 6/12/2002

Date of adoption by agency: 7/17/2002

Hearing date: 8/22/2001, 10/17/2001,
1/16/2002, 5/1/2002 & 7/17/2002

Filing date: 8/29/2002

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 by sending notices of the hearings to persons and entities that may be interested in the regulation. Public comment was also solicited by posting notices of the hearings at public libraries throughout the state. The minutes from three workshops that were held are attached as a summary of the public response. Interested persons may obtain a copy of the minutes from the Nevada Board of Dispensing Opticians by mailing a request to P. O. Box 19625, Reno, Nevada 89511-0868 or by telephone to (775) 853-1421. There was no public comment at the adoption hearing, so there are no summaries.

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation:

A. The number of persons who:

| | | |
|--|------------------|----|
| (a) Attended each hearing: | August 22, 2001 | 18 |
| | October 17, 2001 | 10 |
| | January 16, 2002 | 37 |
| | July 17, 2002 | 08 |
| (b) Testified at each hearing: | August 22, 2001 | 09 |
| | October 17, 2001 | 09 |
| | January 16, 2002 | 16 |
| | July 17, 2002 | 00 |
| (c) Submitted written comments to the agency: | | 02 |

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:

Public comment was solicited by sending notices of the hearings to licensees, persons, and entities that may be interested in the regulation. The minutes from three workshops that

were held are attached as a summary of the public response. Interested persons may obtain a copy of the minutes from the Nevada Board of Dispensing Opticians by mailing a request to P. O. Box 19625, Reno, Nevada 89511-0868 or by telephone to (775) 853-1421. There was no public comment at the adoption hearing, so there are no summaries.

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 statement should also explain the reasons for making any changes to the regulation proposed.

Changes were made to the Proposed Regulations to clarify questions that arose during the review process by LCB. The Revised Proposed Regulations of the Dispensing Opticians, LCB File No. R042-02, dated June 11, 2002, were adopted without further changes.

5. The estimated economic effect of the adopted regulation on the business that 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:

A. Estimated economic effect on dispensing opticians:

It is estimated that the proposed regulations to be adopted and amended would not have a negative economic effect on dispensing opticians. The proposed regulations to be adopted and amended do not increase any fees.

(a) Adverse and beneficial effects:

The proposed regulations to be adopted and amended clarify ophthalmic products, require an increased knowledge of ophthalmic dispensing, clarify and update complaint and discipline procedures, clarify and update education requirements, contact licenses, apprenticeships and supervision. There are numerous beneficial effects of knowledge of recent numerous advances and changes in the dispensing optician industry. In addition, there are numerous beneficial effects with supervision of apprentices dispensing ophthalmic devices. There are few to no adverse effects for the industry as the education and supervision requirements already exist. The proposed regulations to be adopted and amended clarify the provision of chapter 637 of the Nevada Revised Statutes and chapter 637 of the Nevada Administrative Code.

(b) Immediate and long-term effects:

The proposed regulations to be adopted and amended will have similar immediate and long-term effects for the dispensing optician industry. The immediate effects will serve to clarify ophthalmic products, require an increased knowledge of optician dispensing, clarify and update complaint and discipline procedures, clarify and update education requirements, contact licenses, apprenticeships and supervision. The long-term effects will provide an increase in knowledge of dispensing opticians as advances are made in the dispensing optician field.

B. Estimated economic effect on the public:

It is estimated that the proposed regulations to be adopted and amended will not have a negative economic effect on the public.

(a) Adverse and beneficial effects:

The proposed regulations to be adopted and amended will provide the public with an updated complaint and discipline procedure of dispensing opticians as well as supervision of apprentices. In addition, the proposed regulations will provide for an increase in protection for public consumers who require the assistance and services of dispensing opticians.

(b) Immediate and long-term effects:

The proposed regulations to be adopted and amended will have similar immediate and long-term effects for the public. Public consumers will benefit from the updated educational requirements, consumer protection and complaint process immediately, and over the long-term.

6. The estimated cost to the agency for enforcement of the proposed regulation:

The estimated cost to the Nevada Board of Dispensing Opticians for enforcement of the proposed regulations to be adopted and amended is within the allotted legal budget of the Board.

7. A description of any regulations of the 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.

The proposed regulations to be adopted and amended do not overlap or duplicate any regulations of other state or local government agencies or of any federal agency.

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

The proposed regulations to be adopted and amended are not more stringent than a federal regulation that may regulate the same activity.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulations to be adopted and amended do not establish a new fee or increase any existing fees.