

LCB File No. R042-02

**PROPOSED REGULATIONS OF THE
BOARD OF DISPENSING OPTICIANS**

AMENDMENTS TO LICENSING AND DISCIPLINE

Explanation: Matters in *italics* are new; matters within ~~{bold-brackets}~~ is material to be omitted.

Purpose: To amend chapter 637 of the Nevada Administrative Code to provide for efficient licensing, regulation, and discipline of persons licensed under chapter 637 of the Nevada Revised Statutes.

General Authority: NRS 637.070(1)

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Section 1. Chapter 637 of the NAC is hereby amended by adding sections 1 to 16 inclusive, of these proposed regulations.

Section 2: *1. “Ophthalmic products” includes the following:*

- (a) Prepackaged contact lenses*
- (b) Individual contact lenses*
- (c) Ophthalmic lenses for dive masks, sports and occupational goggles*
- (d) Ophthalmic lenses for sunglasses*
- (e) Ophthalmic prescription lenses*
- (f) Ocular Prosthetic devices*

Section 3. *The following conduct shall constitute grounds for discipline:*

- 1. Use of illegal drugs or intoxicants impairing performance of dispensing duties.*
- 2. Working out of the scope of practice as defined in chapter 637 of the Nevada Revised Statutes.*
- 3. Presenting any false or deceptive information to the Board or to the public.*
- 4. Engaging in sexual harassment of any employee or consumer.*
 - (a) The term “sexual harassment” shall mean unwanted touching of an employee or consumer of a sexual nature or which may be reasonably interpreted as sexual in nature, including, without limitation, behavior, gestures, and expressions that may reasonably be interpreted as being sexually suggestive or sexually demeaning to the employee or consumer.*

5. *Attempting to directly or indirectly, by way of intimidation, coercion, or deception to obtain or retain a consumer.*
6. *Acts leading to the harm or endangerment of the public.*

Section 4. *Complaint procedure against a person licensed under chapter 637 of the Nevada Revised Statutes:*

1. *When a member of the public, a Board member, or the Board upon its own initiative believes that a person licensed pursuant to chapter 637 of the Nevada Revised Statutes has engaged in activity that is in violation of chapter 637 of the Nevada Revised Statutes or chapter 637 of the Nevada Administrative Code, he may file a written complaint with the executive director of the Board.*

2. *Any complaint filed pursuant to subsection 1 shall be completed on a form prepared by the Board and signed under oath or under penalty of perjury with the name, address, and telephone number of the individual making the complaint.*

(a) *The complaint form prepared by the Board shall specify that the person making the complaint may be required to testify at an administrative proceeding.*

(b) *The complaint form prepared by the Board shall specify that the Board will provide the form to the person against whom the allegations were made.*

3. *When a complaint is filed with the executive director of the Board, it must be reviewed and considered by the president or a member of the board designated by the president. The president may also delegate the responsibility to review a complaint to the executive director of the Board.*

(a) *If, from the face of the complaint it appears that the complaint is not frivolous, the president or his designee shall cause written notice of the allegations to be served upon the person charged at least 20 days before the date the matter is placed upon a Board agenda for discussion and possible action. Service of process of notices set forth in this section shall be made either personally or by first class certified mail to the last known address of the licensee on file with the Board.*

(i) *The notice to the licensee specified in section 3(a) shall be deemed to be a notice of intended action pursuant to NRS 233B.127(3).*

(ii) *If a licensee fails to respond within 20 days of service of process to written notice of the allegations of the complaint as specified in paragraph 3(a), he shall be deemed to have admitted the allegations in the complaint.*

(iii) *If the president or his designee believes that the complaint is not frivolous, he may cause the complaint to be investigated.*

(iv) *The president or his designee may cause an accusation, as set forth in NAC 637.500, to be filed against the licensee.*

(b) *If, from the face of the complaint it appears that the complaint is frivolous the president or his designee shall cause the Board to consider whether the complaint should be dismissed or investigated further.*

Section 5. 1. *Complaint procedure against a person allegedly engaged in activity requiring a license under chapter 637 of the Nevada Revised Statutes:*

1. *When a member of the public, a Board member, or the Board upon its own initiative, believes that a person is engaged in activity requiring a license under chapter 637 of the*

Nevada Revised Statutes he may file a written complaint with the executive director of the Board.

2. Any complaint filed pursuant to subsection 1 shall be completed on a form prepared by the Board and signed under oath or under penalty of perjury with the name, address, and telephone number of the individual making the complaint.

(a) The complaint form prepared by the Board shall specify that the person making the complaint may be required to testify at a district court proceeding or in front of the Board.

(b) The complaint form prepared by the Board shall specify that the Board will provide the form to the person allegedly engaged in unlicensed activity.

3. When a complaint is filed with the executive director of the Board, it must be reviewed and considered by the president or a member of the board designated by the president. The president may also delegate the responsibility to review a complaint to the executive director of the Board.

(a) If, from the face of the complaint it appears that the complaint is not frivolous, the president or his designee shall cause written notice of the allegations to be served upon the person charged at least 20 days before the date the matter is placed upon a Board agenda for discussion and possible action. If the president or his designee believes that the complaint is not frivolous, he may cause the complaint to be investigated.

(b) If, from the face of the complaint it appears that the complaint is frivolous the president or his designee shall cause the Board to consider whether the complaint should be dismissed or investigated further.

Section 6. NAC 637.015 is hereby amended to read as follows:

NAC 637.015 “Manage a business engaged in ophthalmic dispensing” interpreted.

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 at a single place of business. *The responsibility of the manager includes the activities and supervision of persons not licensed pursuant to chapter 637 of the Nevada Revised Statutes.*

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

NAC 637.150 Applications.

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**.

Section 8. NAC 637.160 is hereby amended to read as follows:

NAC 637.160 Examinations.

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) Measurements for, and the fitting and adaptation of, eyeglasses; and

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

(d) Anatomy & Physiology of the Eye.

(e) Knowledge of the provisions of chapter 637 of the Nevada Revised Statutes and chapter 637 of the Nevada Administrative Code.

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.

Section 9. NAC 637.170 is hereby amended to read as follows:

NAC 637.170 Waiver of examination.

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

(a) Meets all the other requirements for a license in Nevada;

(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.]~~ *An applicant may request a waiver of the examination one time only.*

5. If an applicant is licensed as a dispensing optician in another state, the board may require that applicant to successfully pass an examination of the board's choosing with a score of at least 70%. If the applicant fails the examination given under this section, the applicant may take the next optical examination provided to general applicants provided the applicant submits a \$150 fee at least 60 days prior to the optical examination date.

Section 10: NAC 637.175 is hereby amended to read as follows:

NAC 637.175 License to fit contact lenses; Application; fee.

A separate license is required before a person may fit, sell, fill, furnish or dispense contact lenses except as otherwise provided in chapter 639.2825(2).

1. To obtain a license to fit contact lenses, a licensed dispensing optician 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~~ apprentice 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.

4. A person who has taken and passed the Contact Lens Registry Examination of the National Committee of Contact Lens Examiners and holds a current registration issued by the National Committee of Contact Lens Examiners, is licensed as a dispensing optician pursuant to chapter 637 of the Nevada Revised Statutes, and has passed the Nevada optical examination may fill pre-packaged contact lens prescriptions.

a. A registration certificate issued by the National Committee of Contact Lens Examiners must be submitted to the Board annually with the licensee's annual renewal.

b. A licensee under this section must comply with the continuing education requirements as specified in chapter 637.200(6) and chapter 637.210(1) of the Nevada Administrative Code.

5. At the time of applying for a license, an applicant must have satisfied all of the requirements under chapter 637.100 of the Nevada Revised Statutes.

Section 11: NAC 637.180 is hereby amended to read as follows:

NAC 637.180 Continuing education: "Hours" defined. As used in NAC 637.190 to 637.210, inclusive, "hours" means *a 50 minute educational hour* of lecture or instruction.

Section 12: NAC 637.200 is hereby amended to read as follows:

NAC 637.200 Continuing education: General requirements.

1. Subjects for continuing education in ophthalmic dispensing include:
 - (a) Mechanical and geometric optics;
 - (b) The measurement, fitting and ~~adaption~~ *adaptation* 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 sponsor of a course for continuing education in ophthalmic dispensing shall submit a course outline and such additional materials as the board may require for approval prior to offering the course.*
3. *If the board has not approved a course for continuing education in ophthalmic dispensing, a licensee may submit an outline and such other materials as the board may require for approval.*
4. *The board shall determine the number of credits allowed for all courses.*

5. If continuing education credit is sought for a self-study course, only ½ credit will be approved for each credit earned.

(a) No more than 6 credits may be earned by self-study or over the internet in one year.

~~[4.]~~ 6. 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.]~~ 7. Except as otherwise provided in subsection 6, 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 to the requirement for continuing education for the following year.

~~[6.]~~ 8. 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 to the requirement for continuing education for the following year.

Section 13. NAC 637.215 is hereby amended to read as follows:

NAC 637.215 Transfer of license to inactive list; continuing education required; renewal of inactive status. The holder of a license as a dispensing optician or to fit contact lenses who has paid the fee for the transfer of the license to an inactive list:

1. May 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 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. To reinstate his license, the inactive licensee must write a letter requesting reinstatement of his license, have obtained 12 hours of continuing education credits or 14 hours of continuing education credits for reinstatement of a contact lens fitter's license within the proceeding twelve months, and pay the \$200 reinstatement fee.

Section 14. NAC 637.270 is hereby amended to read as follows:

NAC 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.]~~ **The certificate will be valid from the date of issue by the board and must be renewed yearly by January 31.**

Section 15. NAC 637.280 is hereby amended to read as follows:

NAC 637.280 Supervision of apprentice.

1. A supervising optician or optometrist shall be on the premises of the optical establishment at all times. In all instances of a supervisor's absence, a substitute dispensing optician licensed in the State of Nevada must be obtained to supervise the apprentice.

(a) An optometrist or ophthalmologist, licensed in the State of Nevada, may serve as a supervisor for a contact lens apprentice, but must assume all responsibility for all contact

lens activities and have direct supervision at all times. A form provided by the board shall be completed with a notarized signature of the optometrist or ophthalmologist certifying his responsibility.

(b) The apprentice shall be under the direct employment of the optometrist or ophthalmologist, as indicated by pay forms.

(c) A substitute supervisor of a contact lens apprentice will not be required if the optical establishment has no substitute available.

Section 16. NAC 637.290 is hereby amended to read as follows:

NAC 637.290 Training.

1. An apprentice must receive instruction and personal supervision in the skills required in an optical establishment and in related duties ~~for the first~~ *during the* first 3 years of training *as specified in chapter 637.100(5)(a) of the Nevada Revised Statutes*. The ~~fourth year of apprenticeship~~ *three years of 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 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.

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.

(g) Knowledge of the provisions of chapter 637 of the Nevada Revised Statutes and chapter 637 of the Nevada Administrative Code.